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THE POLITICAL CODE

OF THE

STATE OF MONTANA

As Reported by the Code Commission.

AN ACT

To Establish a Political Code.

Be it enacted by the Legislative Assembly of the State of Montana:

TITLE OF THE ACT.

Section 1. This Act shall be known as the Political Code of the State of Montana, and is divided into five parts, as follows:

Part I. *The sovereignty of the State, and the political rights and duties of all persons subject to its jurisdiction.*
“ II. *The chief political divisions and seat of government.*
“ III. *The government of the State.*
“ IV. *The government of counties, cities, and towns.*
“ V. *The definition and sources of law; the common law; the publication and effect of the Codes; and the express repeal of Statutes.*

PRELIMINARY PROVISIONS.

Section 2. *When Code takes effect.*
“ 3. *Not retroactive.*
“ 4. *Construction of the Political Code.*
“ 5. *Provisions similar to existing laws, how construed.*
“ 6. *Tenure of offices preserved.*
“ 7. *Construction of repeal as to certain officers.*
“ 8. *Actions, etc., not affected by this Code.*
“ 9. *Limitations shall continue to run.*
“ 10. *Holidays.*
“ 11. *Computation of time.*
“ 12. *Certain acts not to be done on holidays.*
“ 13. *Seal defined.*

Section 14. Joint authority.
" *15. Words and phrases.*
" *16. Certain terms used in this Code defined.*
" *17. Statutes, laws, or rules inconsistent with Code repealed.*
" *18. Certain statutes preserved.*
" *19. This Act, how cited, etc.*

Sec. 2. This Code takes effect at twelve o'clock, noon, of the first day of———.

Sec. 3. No part of it is retroactive, unless expressly so declared.

Sec. 4. The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this Code. The Code establishes the law of this State respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice

Sec. 5. The provisions of this Code so far as they are substantially the same as existing statutes, must be construed as continuations thereof, and not as new enactments.

Sec. 6. All persons who at the time this Code takes effect, hold office under any of the acts repealed, continue to hold the same according to the tenure thereof, except those offices which are not continued by one of the Codes adopted at this session of the Legislature, and excepting offices filled by appointment.

Sec. 7. When any office is abolished by the repeal of any act, and such act is not in substance re-enacted or continued in either of the four Codes, such office ceases at the time the Codes take effect.

Sec. 8. No action or proceeding commenced before this Code takes effect, and no right accrued, is affected by its provisions, but the proceedings therein must conform to the requirements of this Code as far as applicable.

Sec. 9. When a limitation or period of time prescribed in any existing statute for acquiring a right or barring a remedy or for any other purpose, has begun to run before this Code goes into effect, and the same or any limitation is prescribed in this Code, the time which has already run shall be deemed part of the time prescribed as such limitation by this Code.

Sec. 10. Holidays within the meaning of this Code, are every Sunday, the first day of January, the twenty-second day of February, the thirtieth day of May, the Fourth day of July, the first Monday of September, the twenty-fifth day of December, every day on which an election is held throughout the State; and every day appointed by the President of the United States, or by the Governor of this State, for a public fast, thanksgiving or holiday. If the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, or the twenty-fifth day of December, fall upon a Sunday, the Monday following is a holiday.

Sec. 11. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.

Sec. 12. Whenever any act of a secular nature, other than a work of necessity or mercy, is appointed by law or contract to be performed upon a particular day, which day falls upon a holiday, such act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

Sec. 13. When the seal of a court, public officer or person is required by law to be affixed to any paper, the word "seal" includes an impression of such seal upon the paper alone as well as upon wax or a wafer affixed thereto.

Sec. 14. Words giving a joint authority to three or more public officers, or other persons, are construed as giving such authority to a majority of them, unless it is otherwise expressed in the act giving the authority.

Sec. 15. Words and phrases are construed according to the context and the approved usage of the language: but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined in the succeeding section, are to be construed according to such peculiar and appropriate meaning or definition

Sec. 16. Words used in this Code in the present tense include the future as well as the present: words used in the masculine gender include the feminine and neuter: the singular number inclues the plural, and the plural the singular: the word "person" includes a corporation as well as a natural person: writing includes printing: "oath" includes affirmation or declaration: every mode of oral statement under oath or affirmation is embraced by the term "testify," and every written one in the term "depose:" signature or subscription includes mark, when the person cannot write, his name being written near it, and witnessed by a person who writes his own name as a witness. The following words also, have in this Code the signification attached to them in this section, unless otherwise apparent from the context.

1. The word "property" includes both real and personal property.

2. The words "real property" are co-extensive with lands, tenements and hereditaments, and possessory titles to public lands.

3. The words "personal property" include money, goods, chattels, things in action, and evidences of debt.

4. The word "year" as used in this Code means a calendar year, and the word "month" means a calandar month, unless otherwise expressed.

5. The word "will" includes codicils.

6. The word "writ" signifies an order or precept in writing, issued in the name of the State, or of a court or judicial officer: and the word "process," a writ or summons issued in the course of judicial proceedings.

7. The word "vessel," when used in reference to shipping, includes ships of all kinds, steamboats and steamships, canal boats and every structure adapted to be navigated from place to place.

8. The term "peace officer" signifies any of the officers mentioned in Section 817, of the Penal Code.

9. The term "magistrate" signifies any one of the officers mentioned in Section 816, of the Penal Code.

10. The word "State," when applied to the different parts of the United States, includes the District of Columbia and the Territories; and the words "United States" may include the District and Territories.

Sec. 17. No statute, law, or rule, is continued in force because it is consistent with the provisions of this Code on the same subject; but in all cases provided for by this Code all statutes, laws, and rules, heretofore in force in this State, whether consistent or not with the provisions of this Code, unless expressly continued in force by it, are repealed and abrogated. This repeal or abrogation does not revive any former law heretofore repealed, nor does it affect any right already existing or accrued, or any action or proceeding already taken, except as in this Code provided; nor does it affect any private statute not expressly repealed.

Sec. 18. Nothing in either of the four Codes affects any of the provisions of any special, local, or private statutes, but such statutes are recognized as continuing in force, notwithstanding the provisions of the Codes, except so far as they have been repealed or affected by subsequent laws.

Sec. 19. This Act, whenever cited, enumerated, referred to, or amended, may be designated simply as THE POLITICAL CODE, adding, when necessary, the number of the section.

PART I.

The Sovereignty of the State, and the Political Rights and Duties of all Persons Subject to Its Jurisdiction.

Title I. Sovereignty of the State.
" II. Persons composing the people of the State.
" III. Political rights and duties of all persons subject to the jurisdiction of the State.

TITLE I.

SOVEREIGNTY OF THE STATE.

Chapter I. Residence of sovereignty.
" II. Territorial jurisdiction of the State.
" III. General rights of the State over persons.
" IV. General rights of the State over property.

CHAPTER I.

RESIDENCE OF SOVEREIGNTY.

Sec. 25. The sovereignty of the State resides in the people thereof, but the style of all process must be "The State of Montana," and all prosecutions must be conducted in the name of the State.

CHAPTER II.

TERRITORIAL JURISDICTION OF THE STATE.

Section 27. Territorial jurisdiction; limitations on.
" 28. Military reservations, etc.
" 29. Purchase, etc., of lands by United States for public use.

Sec. 27. The sovereignty and jurisdiction of this State extends to all places within its boundaries as established by the Constitution, excepting such places as are under the exclusive jurisdiction of the United States; but the extent of such jurisdiction over places that have been or may be ceded to, purchased or condemned by the United States, is qualified by the terms of such cession, or the laws under which such purchase or condemnation has been or may be made.

Sec. 28. Authority is granted to and acknowledged in the United States to exercise exclusive legislation as provided by the Constitution of the United States, over the military reservations of Fort Assinaboine, Fort Custer, Fort Keogh, Fort Maginnis, Fort Missoula, and Fort Shaw, as now established by law, so long as said places remain military reservations, to the same extent and with the same effect as if said reservations had been purchased by the United States by consent of the Legislative Assembly of the State of Montana.

All legal process of the State, both civil and criminal, may be served upon persons and property found within any of said reservations or on any Indian reservation in all cases where the United States has not exclusive jurisdiction.

Sec. 29. The Legislative Assembly consents to the purchase or condemnation by the United States of any tract of land within this State for the purpose of erecting forts, magazines, arsenals, court houses, postoffices, and other needful buildings, upon the express condition that all civil process issued from the courts of this State, and such criminal process as may issue under the authority of this State against any person charged with crime, may be served and executed thereon in the same mode and manner and by the same officers as if the purchase or condemnation had not been made.

CHAPTER III.

GENERAL RIGHTS OF THE STATE OVER PERSONS.

Section 31. Rights over persons enumerated.

Sec. 31. The State has the following rights over persons within its limits, to be exercised in the cases and in the manner provided by law:

1. To punish for crime.

2. To imprison or confine for the protection of the public peace or health, or of individual life or safety.

3. To imprison or confine for the purpose of enforcing civil remedies.

4. To establish custody and restraint for the persons of idiots, lunatics, drunkards, and other persons of unsound mind.

5. To establish custody and restraint of paupers for the purpose of their maintenance.

6. To establish custody and restraint of minors unprovided for by natural guardians, for the purposes of their education, reformation, and maintenance.

7. To require services of persons, with or without compen-

sation: In military duty, in jury duty, as witnesses, as town, village or city officers, in highway labor, in maintaining the public peace, in enforcing the service of process, in protecting life and property from fire, pestilence, wreck and flood, and in such other cases as are provided by statute.

CHAPTER IV.

GENERAL RIGHTS OF THE STATE OVER PROPERTY.

Section 33. Original and ultimate title.
" *34. Property escheats, when.*
" *35. Acquisition by taxation and assessment.*
" *36. By right of eminent domain.*

Sec. 33. The original and ultimate right to all property, real and personal, within the jurisdiction of this State and not belonging to the United States, is in the people of the State.

Sec. 34. Whenever the title to any property fails for want of heirs or next of kin, it reverts to the State. All property within the limits of this State which does not belong to any person, belongs to the State.

Sec. 35. The State, or any county thereof, may acquire property by taxation in the modes authorized by law.

Sec. 36. The State may acquire or authorize others to acquire title to property, real or personal, for public use, in the cases and in the modes provided in Title VII., Part III., of the Code of Civil Procedure.

TITLE II.

PERSONS COMPOSING THE PEOPLE OF THE STATE.

Section 40. Who are the people.
" *41. Who are citizens.*
" *42. Residence, rules for determining.*

Sec. 40. The people, as a political body, consist:

1. Of electors.
2. Of citizens not electors.

Sec. 41. The citizens of the State are:

1. All persons born in this State and residing within it, except the children of transient aliens.
2. All persons born out of this State who are citizens of the United States and residing within this State.

Sec. 42. Every person has, in law, a residence. In determining the place of residence the following rules are to be observed:

1. It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he returns in seasons of repose.
2. There can only be one residence.

3. A residence can not be lost until another is gained.

4. The residence of the father during his life, and after his death the residence of the mother, while she remains unmarried, is the residence of the unmarried minor children.

5. The residence of the husband is presumptively the residence of the wife.

6. The residence of an unmarried minor who has a parent living, cannot be changed by either his own act or that of his guardian.

7. The residence can be changed only by the union of act and intent.

TITLE III.

POLITICAL RIGHTS AND DUTIES OF ALL PERSONS SUBJECT TO THE JURISDICTION OF THE STATE.

Section 45. Persons within the State entitled to its protection.
" *46. Allegiance.*
" *47. Allegiance may be renounced.*
" *48. Persons not citizens.*
" *49. Eligibility to office.*
" *50. Rights and duties of citizens not electors.*
" *51. Rights and duties of citizens of other States.*

Sec. 45. Every person while within the jurisdiction of this State is entitled to its protection.

Sec. 46. Allegiance is the obligation of fidelity and obedience which every citizens owes to the State.

Sec. 47. Allegiance may be renounced by a change of residence.

Sec. 48. Persons in the State not its citizens are either:

1. Citizens of other States; or
2. Aliens.

Sec. 49. Every elector is eligible to the office for which he is an elector, except where otherwise specially provided.

Sec. 50. An elector has no rights or duties beyond those of a citizen not an elector, except the right and duty of holding and electing to office.

Sec. 51. A citizen of the United States, who is not a citizen of this State, has the same rights and duties as a citizen of this State not an elector.

PART II.

The Chief Political Divisions and the Seat of Government.

TITLE I.

CHIEF POLITICAL DIVISIONS OF THE STATE.

Chapter I. Counties.
" II. Senatorial and representative districts.
" III. Congressional district.
" IV. Judicial districts.

CHAPTER I.

Sec. 55. The State is divided into counties as declared in Part IV. of this Code.

CHAPTER II.

SENATORIAL AND REPRESENTATIVE DISTRICTS.

Section 57. Senatorial districts, how constituted.
" 58. New counties.
" 59. Representative districts.

Sec. 57. The senatorial districts of the State shall be constituted and numbered as follows:

The county of Beaverhead shall constitute the First district, and be entitled to one senator.

The county of Madison shall constitute the Second district, and be entitled to one senator.

The county of Gallatin shall constitute the Third district, and be entitled to one senator.

The county of Jefferson shall constitute the Fourth district, and be entitled to one senator.

The county of Deer Lodge shall constitute the Fifth district, and be entitled to one senator.

The county of Missoula shall constitute the Sixth district, and be entitled to one senator.

The county of Lewis and Clarke shall constitute the Seventh district, and be entitled to one senator.

The county of Choteau shall constitute the Eighth district, and be entitled to one senator.

The county of Meagher shall constitute the Ninth district, and be entitled to one senator.

The county of Silver Bow shall constitute the Tenth district, and be entitled to one senator.

The county of Custer shall constitute the Eleventh district, and be entitled to one senator.

The county of Yellowstone shall constitute the Twelfth district, and be entitled to one senator.

The county of Dawson shall constitute the Thirteenth district, and be entitled to one senator.

The county of Fergus shall constitute the Fourteenth district, and be entitled to one senator.

The county of Park shall constitute the Fifteenth district, and be entitled to one senator.

The county of Cascade shall constitute the Sixteenth district, and be entitled to one senator.

Sec. 58. Whenever new counties are created, each of said counties shall be entitled to one senator, but in no case shall a senatorial district consist of more than one county.

Sec. 59. Representatives must be divided among the several counties of the State in the following manner:

The county of Beaverhead shall have two (2).
The county of Madison shall have two (2).
The county of Gallatin shall have two (2).
The county of Jefferson shall have three (3).
The county of Deer Lodge shall have seven (7).
The county of Missoula shall have five (5).
The county of Lewis and Clarke shall have eight (8).
The county of Choteau shall have two (2).
The county of Meagher shall have two (2).
The county of Silver Bow shall have ten (10).
The county of Custer shall have two (2).
The county of Yellowstone shall have one (1).
The county of Fergus shall have two (2).
The county of Park shall have two (2).
The county of Cascade shall have two (2).

The counties of Dawson and Cascade shall have one (1) jointly.

The counties of Deer Lodge and Beaverhead shall have one (1) jointly.

The counties of Jefferson and Gallatin shall have one (1) jointly.

CHAPTER III.

CONGRESSIONAL DISTRICTS.

Sec. 62. The State constitutes a Congressional district.

CHAPTER IV.

JUDICIAL DISTRICTS.

Sec. 66. Until otherwise provided by law the judicial districts of the State shall be constituted as follows: First district, Lewis and Clarke county; Second district, Silver Bow county; Third district, Deer Lodge county; Fourth district, Missoula county: Fifth district, Beaverhead, Jefferson, and Madison counties; Sixth district, Park and Meagher counties; Seventh district, Yellowstone, Custer and Dawson counties; Eighth district, Cascade county; Ninth district, Gallatin county; Tenth district, Choteau and Fergus counties.

TITLE II.

SEAT OF GOVERNMENT.

Section 70. *Election for location.*
" 71. *Nominations.*
" 72. *Duty of Secretary of State.*
" 73. *Election, how conducted.*
" 74. *No choice, must be submitted again.*

Sec. 70. At the general election in the year 1892, the question of the permanent location of the seat of government shall be submitted to the qualified electors of the State, in the manner hereinafter provided.

Sec. 71. Nominations of towns or cities in candidacy for the place of location of the seat of government must be made in the following manner: There must be presented to and filed with the Secretary of the State a certificate of nomination containing the name of the town or city nominated for the place of location of the seat of government, the name of the county wherein the same is situated, and signed by twenty-five electors residing within the county wherein the town or city named is situated, and containing with each signature the place of residence, business and business address of each elector, respectively, and from and after the day of filing of the said certificates the town or city named therein is deemed to have been regularly nominated, and must be listed on ballots as hereinafter provided, but all nominations must be made not less than sixty days preceding the general election in the year 1892.

Sec. 72. Immediately after the closing of nominations, as provided in the last preceding section, the Secretary of State must prepare a list of all towns or cities so placed in nomination, with a statement of the facts that they are towns and cities nominated for the place of location of the permanent seat of government in Montana, together with an announcement of the day and date on which the election is held, and he must cause the same to be published in each respective county, in at least one newspaper of general circulation, published therein, and the said Secretary must also prepare and have printed, ballots, which must be in form as follows, to-wit:

"For place of location of the permanent capitol of the State of Montana," and immediately thereunder shall follow in consecutive alphabetical order, a list of the towns or cities nominated therefor, the name of each town or city being given a separate line, which said ballots must be distributed as official ballots, in sufficient quantities to the county clerks of the respective counties of the State, to be by them distributed to the various election precincts in like quantity as they distribute the official election ballots for State and county officers, and which must be stamped with the same stamp, and delivered to the electors, voted, returned and counted in the same manner and at the same time as the said general official ballots.

Sec. 73. Each elector is entitled to vote for but one town or city upon the said list, and he must indicate his preference by placing in a space opposite and to the right of the name of the town or city for which he intends to vote, a cross thus: X, in the same manner as upon the official ballot, and he must prepare his ballot for the place of location of the permanent seat of government, return it and vote it in the same manner, and at the same time as the general election ballot, and the said ballots must be counted, returned, reported and canvassed in the same manner as the ballots and votes for State officers at the said general election, and every act or acts now by law made punishable as a crime when committed at the general election with reference to the general election ballots or the general election itself, or any of the details connected therewith, shall equally be deemed a crime, and punished in the manner when committed with reference to the ballots or voting or returns of election herein provided for as to the location of the permanent seat of government, and all provisions of the general election law not inconsistent with the purposes of this title are applicable thereto.

Sec. 74. A majority of all the votes cast upon the question of the permanent location of the seat of government in favor of some single town or city is necessary to determine a choice of such location, and in the event any single town or city receives such a majority of all the votes cast, it is the permanent seat of government; but in case there is no choice of location as hereinbefore provided at the said election in the year 1892, then the question of choice must be again and in a like manner submitted to the qualified electors at the next general election thereafter, provided that the only towns or cities to be balloted for at the said election must be the two receiving the highest number of votes at the first general election.

PART III.

The Government of the State.

Title I. Public officers.
" *II. Elections.*
" *III. Education.*
" *IV. Militia.*
" *V. Public institutions.*
" *VI. Public ways.*
" *VII. General police of the State.*
" *VIII. Property of the State.*
" *IX. Mines and mining.*
" *X. Revenue of the State.*

TITLE I.

PUBLIC OFFICERS.

Chapter I. Classification of the public officers.
" *II. Legislative officers.*
" *III. Executive officers.*
" *IV. Judicial officers.*
" *V. Salaries of judicial officers.*
" *VI. Ministerial and other officers connected with the courts.*
" *VII. General provisions relative to different classes of officers.*

CHAPTER I.

CLASSIFICATION OF PUBLIC OFFICERS.

Section 80. Classification of the public officers.

Sec. 80. The public officers of this State are classified as follows:

1. Legislative.
2. Executive.
3. Judicial.
4. Ministerial officers and officers of the courts.

But this classification is not to be construed as defining the legal powers of either class.

CHAPTER II.

LEGISLATIVE OFFICERS.

Article I. Designation, term of office, and election of members.
" *II. Meeting and organization of the Legislative Assembly.*
" *III. Number, designation, election, and appointment of officers and employes of the Legislative Assembly.*
" *IV. Power and duties of officers and employes of the Legislative Assembly.*
" *V. Compensation of members, officers and employes of the Legislative Assembly.*
" *VI. Contesting elections for members of the Legislative Assembly.*
" *VII. Contesting elections of a State officer.*
" *VIII. Attendance and examination of witnesses before the Legislative Assembly and committees thereof.*
" *IX. Enactment of statutes.*
" *X. Promulgation of statutes.*
" *XI. Operation of statutes.*
" *XII. Public reports.*

ARTICLE I.

NUMBER, DESIGNATION, TERM OF OFFICE AND ELECTION OF MEMBERS OF THE LEGISLATIVE ASSEMBLY.

Section 85. Number and designation.
" *86. Term of office.*
" *87. Election of Representatives.*
" *88. Election of Senators.*
" *89. Same.*

Sec. 85. The Legislative Assembly consists of
1. Sixteen Senators.
2. Fifty-five Representatives.

Sec. 86. The term of office of a Senator is four years; of a Representative, two years.

Sec. 87. At the general election in the year 1892, there must be elected fifty-five Representatives in accordance with the apportionment prescribed in Chapter II., Title I., Part II., of this Code.

Sec. 88. At the general election in the year 1892 there must be elected a Senator from each of the odd numbered senatorial districts and hold office for four years, and their successors must be elected in the year 1896, and every four years thereafter.

Sec. 89. At the general election in the year 1894 there must be elected a Senator from each of the even numbered senatorial districts, who shall hold office for four years, and their successors must be elected in the year 1898, and every year thereafter.

ARTICLE II.

MEETING AND ORGANIZATION OF THE LEGISLATURE.

Section 90. Time and place of meeting.
" *91. Certificate of election, evidence of a right to seat.*
" *92. Officers who hold until successors are elected.*
" *93. Senate, organization of.*
" *94. House of Representatives, organization of.*
" *95. Oath to be entered on journals.*
" *96. Election of officers.*
" *97. Compelling attendance of members.*

Sec. 90. The Legislative Assembly shall meet at the seat of government at twelve o'clock, noon, on the first Monday of January, 1893, and each alternate year thereafter, and at other times when convened by the Governor.

Sec. 91. The certificate of election from the clerk of the proper county is *prima facie* evidence of the right to membership of the person certified therein to be elected, for all purposes of organization of either branch of the Legislative Assembly.

Sec. 92. The secretary of the Senate and clerk of the House of Representatives, and sergeants-at-arms of each house for any session, must at the next succeeding session of the body, perform the duties of their offices until their successors are elected and qualified.

Sec. 93. At the hour of twelve o'clock M. on the day appointed for the meeting of any regular session of the Legislative Assembly, the president of the Senate, or in case of his absence or inability, then the senior member present must take the chair, call the senators and senators-elect to order, and then cause the secretary to call over the senatorial districts in their order, from which members have been elected at the preceding election, and as the same are called the members-elect must present their certificates, take the constitutional oath of office, and assume their seats. The Senate may thereupon, if a quorum is present, proceed to elect its officers.

Sec. 94. At the time specified in Section 93, the Secretary of State, or in case of his absence or inability, then the senior member elect present, must take the chair, call the members elect of the House of Representatives to order, and then call over the roll of counties and districts; and as the same are called the members elect must present their certificates, take the constitutional oath of office, and assume their seats. The House of Representatives may thereupon, if a quorum is present, proceed to elect its officers.

Sec. 95. An entry of the oath taken by the members of the Legislative Assembly must be made on the journals of the proper houses respectively.

Sec. 96. In all elections of officers of either branch of the Legislative Assembly, a majority of all the votes given is necessary to a choice.

Sec. 97. Whenever at the commencement of or during the regular or extraordinary sessions of the Legislative Assembly, upon a call of either house it is found that no quorum of members is present, or if any member or members are found to be absent upon any such call, the members present are authorized to direct the sergeant-at-arms of such house, and in his absence, then any other person to compel the attendance of any or all the absentees. If the house refuse to excuse such absentee, he is not entitled to any per diem during such absence, and is liable for the expenses incurred in procuring his attendance.

ARTICLE III.

NUMBER, DESIGNATION, ELECTION, AND APPOINTMENT OF OFFICERS AND EMPLOYES OF THE LEGISLATIVE ASSEMBLY.

Section 100. Officers of the Senate.
" *101. Officers of the House of Representatives.*
" *102. How elected.*

Sec. 100. The officers and employes of the Senate consist of a president, president *pro tem*, one secretary, one assistant secretary, one sergeant-at-arms, and the Senate may elect one assistant sergeant-at-arms, one enrolling clerk, one engrossing clerk, one door-keeper, one janitor, one day watchman, one night watchman, one chaplain, two pages, and three committee clerks.

Sec. 101. The officers and employes of the House of Representatives consist of a speaker, speaker *pro tem*, one clerk, one assistant clerk, and one sergeant-at-arms, and the House may elect one assistant sergeant-at-arms, one enrolling clerk, one engrossing clerk, one door-keeper, one janitor, one day watchman, one night watchman, one chaplain, three pages, and four committee clerks.

Sec. 102. All officers and employes of the Legislative Assembly, except the president of the Senate, must be elected by the house to which such officers and employes are attached.

ARTICLE IV.

POWERS AND DUTIES OF THE OFFICERS AND EMPLOYES OF THE LEGISLATIVE ASSEMBLY.

Section 107. What officers of, may administer oaths.
" *108. Duties of secretary and clerk.*

Section 109. Duties of assistant secretary and assistant clerk.
" *110. Journals how authenticated.*
" *111. Duties of sergants-at-arms.*
" *112. Duties of assistant sergeants-at-arms.*
" *113. Duties of subordinate officers.*
" *114. Duties of clerks.*
" *115. Duties of assistant clerks.*
" *116. Duties at close of session.*

Sec. 107. The president and president *pro tem*, of the Senate, and the speaker and speaker *pro tem*, of the House of Representatives, may administer the oath of office to any senator or representative, and to the officers and employes of their respective bodies. The members of any committee may administer oaths to witnesses in any matter under examination. The officers and employes must perform such duties as are required by the rules or orders of the respective bodies which elect them.

Sec. 108. The secretary of the Senate and the clerk of the House of Representatives must attend each day, call the roll, prepare the journal, and read the journal and bills, and superintend all copying necessary to be done for their respective houses, and keep a correct record of the proceedings.

Sec. 109. The assistant secretary of the Senate and the assistant clerk of the House must take charge of all bills, petitions and other papers presented to their respective houses, file and enter the same in the books provided for that purpose, and perform such other duties as may be directed by the secretary of the Senate and clerk of the House of Representatives.

Sec. 110. The journal of the Senate must be authenticated by the signature of the president, and the journal of the House of Representatives by the signature of the speaker.

Sec. 111. The sergeant-at-arms of the Senate and the sergeant-at-arms of the House of Representatives must give a general supervision, under the direction of their presiding officers, to the Senate and House, with the rooms attached; attend during the sittings of their respective bodies, execute their commands and all process issued by their authority; keep an account for pay and mileage of members, and prepare checks for the same.

Sec. 112. The assistant sergeant-at-arms of each house must prohibit all persons, except members, officers and employes, and such other persons as may have the privilege of the floor assigned them by the rules of each house, from entering within the bar of the house, unless upon invitation, and keep order in the halls and lobbies, and perform such other duties as shall be imposed by the presiding officer or the sergeant-at-arms.

Sec. 113. The committee clerks, door-keeper, janitor, day watchman, night watchman, and pages, must perform such duties as shall be assigned to them by the presiding officers of the respective houses, or by the rules and orders of the respective bodies.

Sec. 114. The engrossing clerks and enrolling clerks must, within forty-eight hours after their reception, engross or enroll all bills delivered to them for engrossment or enrollment, unless further time be granted; and no extra assistance must be employed for them during the first thirty days of the session. Such assistance must be furnished during the last thirty days of the session only upon the vote of the house in which the work is to be performed.

Sec. 115. All work performed by assistants in the engrossing and enrolling clerks' offices must be paid for out of the contingent fund of the respective houses in which the work is performed, as follows: For work performed in the engrossing clerks' offices, not to exceed the sum of ten cents per folio of one hundred words, and for work performed in the enrolling clerks' offices not to exceed the sum of fifteen cents per folio of one hundred words. All bills for engrossing or enrolling must be made out by the clerk and presented at the end of each week, to the committee on expenditures and accounts or such other committee as either house may designate, whose duty it is to audit and certify to the correctness of the same. Upon this certificate the State Auditor must draw his warrant in favor of the clerk in whose charge work has been done, for the amount performed each week, and the clerk shall receive and pay the same to his assistants and becomes personally responsible to his assistants for their pay, and to their respective houses for all bills received by them.

Sec. 116. The secretary of the Senate and clerk of the House of Representatives at the close of each session of the Legislative Assembly must mark, label, and arrange all bills and papers belonging to the archives of their respective houses, and deliver them, together with all the books of both houses, to the Secretary of State, who must certify to the reception of the same.

ARTICLE V.

COMPENSATION OF MEMBERS, OFFICERS, AND EMPLOYES OF THE LEGISLATIVE ASSEMBLY.

Section 120. Per diem and mileage of members.
" 121. Per diem and mileage of president of Senate and speaker of House.
" 122. Compensation of other officers and employes.
" 123. Compensation for services after close of session.

Sec. 120. Members of the Legislative Assembly receive six dollars per day, payable weekly during the session of the Legislative Assembly, and twenty cents per mile for each mile of travel to and from their residences and the place of holding the session.

Sec. 121. The president of the Senate and the speaker of the House receive the sum of ten dollars per diem during the session of the Legislative Assembly, and the same mileage as members.

Sec. 122. There must be paid to the secretary of the Senate and to the clerk of the House of Representatives, each ten dollars per day; to the assistant secretary, the engrossing clerk, the enrolling clerk, the sergeant-at-arms, and the assistant sergeant-at-arms, of the Senate, each six dollars per day; to the assistant clerk, the engrossing clerk, the enrolling clerk, the sergeant-at-arms, the assistant sergeant-at-arms, of the House of Representatives, each six dollars per day; to each committee clerk, door-keeper, janitor, day watchman and night watchman, of each house, five dollars per day: the chaplain and each page of each house four dollars per day.

Sec. 123. For services performed under the provisions of Section 116, of this Code, each of the officers therein named receive a compensation of fifty dollars.

ARTICLE VI.

CONTESTING ELECTIONS FOR MEMBERS OF THE LEGISLATIVE ASSEMBLY.

Section 130. Who may contest.
" 131. Statement of cause of contest to be filed.
" 132. Commission to take testimony.
" 133. Notice to person interested. By whom served.
" 134. Compelling attendance of witnesses.
" 135. Testimony how taken.
" 136. Vacancy in commission how filled.
" 137. Fees of officers.
" 138. Testimony to be transmitted to Secretary of State.
" 139. Depositions.
" 140. Further evidence may be taken.

Sec. 130. The right of any person declared elected to a seat in the Senate or House of Representatives may be contested by any qualified elector of the county or district to be represented by such Senator or Representative.

Sec. 131. The person contesting such election must, within twenty days after the certificate of election is issued, file with the clerk of the District Court of the county, or one of the counties in which the alleged cause of contest originated, a statement of the grounds of contest verified by his oath.

Sec. 132. On the filing of such statement the clerk must issue a commission, directed to two justices of the peace of his county, to meet at a time and place specified in the commission, not less than twenty nor more than thirty days from the date thereof, for the purpose of taking the depositions of such witnesses as the parties to the contest may wish to examine.

Sec. 133. Written notice of such contest, specifying the time and place of taking depositions, and a copy of the statement certified by the clerk, must be delivered to the person whose election is contested, or if he can not be found, left at the house where he last resided, by the sheriff of the county in which such person claims his residence, within ten days after such statement is filed.

Sec. 134. Either of the justices of the peace has power to issue subpoenas for witnesses, at the request of either party, to be served by the sheriff as other subpoenas; and such justices, when met at the time and place appointed to take such depositions, have the same power to issue attachments and assess fines against witnesses, as is given to justices of the peace in the trials of civil actions.

Sec. 135. The justices must meet at the time and place appointed, and take the depositions of witnesses produced by the parties, and may continue the examination from day to day if necessary. When the examination is closed they must seal up the depositions taken before them, together with the commission, and transmit the same by mail or express to the clerk with whom the statement was filed.

Sec. 136. If at any time either of the justices is unable to proceed in such examination, the clerk may supply the vacancy by designating any justice of the peace of the county.

Sec. 137. Officers performing services in a contested election case may charge and collect from the party at whose instance such services were performed, the same fees as are allowed them for similar services in civil cases.

Sec. 138. The clerk must seal up the depositions, the original statement, the copy of the notice served upon the party whose right is contested, and the commission issued to the justices of the peace, and transmit the same by mail to the Secretary of State, indorsing thereon the names of the contesting parties and the branch of Legislative Assembly before which such contest is to be tried. The Secretary of State must deliver the same unopened to the presiding officer of the house in which such contest is to be tried, on or before the second day of the session of the Legislative Assembly next after taking such depositions, and such presiding officer must immediately give notice to the house that such papers are in his possession.

Sec. 139. At any time after notice of contest has been given, and before the trial thereof before the proper branch of the Legislative Assembly, either party may take depositions to be read on the trial in like manner and under the same rules as are allowed and required in the cases of depositions to be read on the trial of civil actions; and such depositions when taken, must be sealed up by the officer taking the same, and directed to the Secretary of State, who must keep the same unopened, and deliver them to the presiding officer of the House in which the contest is to be tried

Sec. 140. The house before which the contest is pending may take such other evidence in the case as it deems material.

ARTICLE VII.

CONTESTING THE ELECTION OF A STATE OFFICER.

Section 145. Who may contest.
" *146. Contest how conducted.*

Sec. 145. Any elector of the State may contest the election of any person declared elected to a State office or to the office of district judge.

Sec. 146. The proceedings in such contest must be according to the provisions of Chapter V., Part II., Title X., of the Code of Civil Procedure, or by writ of *quo warranto* issued by the Supreme Court.

ARTICLE VIII.

ATTENDANCE AND EXAMINATION OF WITNESSES BEFORE THE LEGISLATIVE ASSEMBLY AND COMMITTEES THEREOF.

Section 156. Subpoenas.
" *157. Service of subpoenas.*
" *158. Contempt.*
" *159. Compelling attendance.*
" *160. Witnesses not to be held to answer criminally. Refusal to testify.*

Sec. 156. A subpoena requiring the attendance of any witness before either house of the Legislative Assembly, or a committee thereof, may be issued by the president of the Senate, speaker of the House, or the chairman of any committee before whom the attendance of the witness is desired; and it is sufficient if:

1. It states whether the proceeding is before the House of Representatives, or the Senate, or a committee.
2. It is addressed to the witness.
3. It requires the attendance of such witness at a time and place certain.
4. It is signed by the president of the Senate, speaker of the House, or chairman of a committee.

Sec. 157. The subpoena may be served by any elector of the State, and his affidavit that he delivered a copy to the the witness is evidence of service.

Sec. 158. If any witness neglects or refuses to obey such subpoena, or appearing, neglects or refuses to testify, the Senate or House may, by resolution entered on the Journal, commit him for contempt.

SEC. 159. Any witness neglecting or refusing to attend in obedience to subpœna may be arrested by the Sergeant-at-Arms and brought before the Senate or House. The only warrant or authority necessary to authorize such arrest is a copy of a resolution of the Senate or House, signed by the president or speaker of the House of Representatives, and countersigned by the secretary or clerk.

SEC. 160. No person sworn and examined before either house of the Legislative Assembly or any committee thereof, can be held to answer criminally, or be subject to any penalty or forfeiture for any fact or act touching which he is required to testify, nor is any statement made or paper produced by any such witness competent evidence in any criminal proceeding against such witness; nor can such witness refuse to testify to any fact or to produce any paper touching which he is examined, for the reason that his testimony or the production of such paper tend to disgrace him or render him infamous. Nothing in this section exempts any witness from prosecution and punishment for perjury committed by him on such examination.

ARTICLE IX.

ENACTMENT OF STATUTES.

Section 165. Bills received by the Governor, how endorsed.
" *166. Approval of bills.*
" *167. Bills returned without approval.*
" *168. Return, when House not in session.*
" *169. Bills remaining with the Governor more than five days.*
" *170. Effect of final adjournment on bills.*

Sec. 165. Every bill must, as soon as delivered to the Governor, be indorsed as follows: "This bill was received by the Governor this———day of———eighteen———." The indorsement must be signed by the private secretary of the Governor, or by the Governor himself.

Sec. 166. When the Governor approves a bill he must set his name thereto, with the date of his approval, and deposit the same in the office of the Secretary of State. If any bill presented to the Governor contains several distinct items of appropriation of money he may disapprove one or more items, while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects and his objections thereto. If the Legislative Assembly be in session, the Governor must transmit to the house in which the bill originated a copy of such statement, and the items so objected to must be separately reconsidered in the same manner as bills which have been disapproved by the Governor.

Sec. 167. When a bill has passed both houses of the Legislative Assembly, and is returned by the Governor without his signature, and with objections thereto, or if it be a bill containing several items of appropriation of money, with objections to one or more items, and upon reconsideration such bill, or item, or items, pass both houses by the constitutional majority, the bill or item, or items, must be authenticated as having become a law by a certificate indorsed on or attached to the bill, or indorsed or attached to the copy of the statement of objections, in the following form: "This bill having been returned by the Governor with his objections thereto, and after reconsideration having passed both houses by the constitutional majority, has become a law this ——— day of ——— A. D., ———;" or, "the following items in the within statement (naming them) having after reconsideration, passed both houses by the constitutional majority, have become a law this ——— day of ——— A. D., ———," which indorsement, signed by the president of the Senate and the speaker of the House of Representatives is a sufficient authentication thereof. Such bill or statement must then be delivered to the Governor, and by him must be deposited with the laws in the office of the Secretary of State.

Sec. 168. If, on the day the Governor desires to return a bill without his approval, and with his objections thereto, to the house in which it originated, that house has adjourned for the day (but not for the session), he may deliver the bill with his message, to the presiding officer, secretary, clerk, or any member of such house, and such delivery is as effectual as though returned in open session, if the Governor, on the first day the house is again in session, by message, notifies it of such delivery, and of the time when, and the person to whom, such delivery was made.

Sec. 169. Every bill which has passed both houses of the Legislative Assembly, and has not been returned by the Governor within five days, thereby becoming a law, is authenticated by the Governor causing the fact to be certified thereon by the Secretary of State, in the following form: "This bill having remained with the Governor five days (Sundays excepted), and the Legislative Assembly being in session it has become a law this ——— day of ——— A. D. ———," which certificate must be signed by the Secretary of State and deposited with the laws in his office.

Sec. 170. No bill shall become a law after the final adjournment of the Legislative Assembly unless approved by the Governor within fifteen days after such adjournment. In case the Governor fails to approve of any bill after the final adjournment of the Legislative Assembly, it must be filed with his objections in the office of the Secretary of State.

ARTICLE X.

PROMULGATION OF STATUTES.

Section 173. Publication and distribution of Statutes.

Sec. 173. The publication and distribution of Statutes is provided for in Chapter III., Title I., Part III., of this Code.

ARTICLE XI.

OPERATION OF STATUTES.

Section 175. When statutes take effect.
" 176. When joint resolutions take effect.
" 177. Effect of amendment.
" 178. Construction of statutes.
" 179. Repeal of statutes.
" 180. Act not revived by repealing the Act repealing it.
Section 181. Repeal of law creating offense no bar to punishment.
Section 182. Amendatory Act, when void.

Sec. 175. Every statute, unless a different time is prescribed therein, takes effect on twentieth day after its passage.

Sec. 176. Every joint resolution, unless a different time is prescribed therein, takes effect from its passage.

Sec. 177. Where a section or part of a statute is amended, it is not to be considered as having been repealed and re-enacted in the amended form, but the portions which are not altered are to be considered as having been the law from the time when they were enacted, and the new provisions are to be considered as having been enacted at the time of the amendment.

Sec. 178. The general rules for the construction of statutes are contained in the provisions of the different Codes.

Sec. 179. Any statute may be repealed at any time, except when it is otherwise provided therein. Persons acting under any statute are deemed to have acted in contemplation of this power of repeal.

Sec. 180. No act or part of an act, repealed by another act of the Legislative Assembly, is revived by the repeal of the repealing act without express words reviving such repealed act or part of an act.

Sec. 181. The repeal of any law creating a criminal offense does not constitute a bar to the indictment or information and punishment of an act already committed in violation of the law so repealed, unless the intention to bar such indictment or information and punishment is expressly declared in the repealing act.

Sec. 182. An act amending a section of an act repealed is void.

ARTICLE XII.

PUBLIC REPORTS.

Section 187. When State officers, etc., are to report.
" *188. Reports, printing of.*
" *189. Number to be printed.*
" *190. Distribution of.*
" *191. Semi-annual reports.*

Sec. 187. All Officers, Boards of Officers, Commissioners, Trustees and Directors required by law to make reports to the Governor or Legislative Assembly, must send such reports to the Governor before the first Monday of November, in the year eighteen hundred and ninety-two, and every second year thereafter.

Sec. 188. The Secretary of State must print such reports before the twentieth day of December next after the receipt thereof.

Sec. 189. There must be printed: Of the report of the Secretary of State, five hundred copies; of the report of the State Auditor, five hundred copies; of the report of the State Treasurer, five hundred copies; of the report of the Superintendent of Public Instruction, five hundred copies; of the report of the State Librarian, two hundred copies; of the report of the State Board of Commissioners for the Insane, Deaf Dumb and Blind Asylums, five hundred copies; of the report of the Commissioners of the State Prison, five hundred copies; of the report of the State Board of Equalization, five hundred copies; of the State Board of Land Commissioners, five hundred copies.

Sec. 190. The reports must be delivered by the Secretary of State as follows: To the Governor, twenty-five copies of each report; to the State Librarian, ten copies of each report; to the Secretary of State, twenty-five copies of each report; to the Superintendent of Public Instruction, two hundred and fifty copies of his report for distribution to school trustees and teachers and for exchange with other states; to the State Board of Land Commissioners, two hundred copies of their report for distribution to the county surveyors, assessors, county clerks for the several counties, and for exchange with the other states; to the State Auditor, one hundred and fifty copies of his report; to the Secretary of State, one hundred copies of his report; to the State Treasurer, one hundred copies of his report; to the State Librarian, fifty copies of his report; to the officers of the State Board of Commissioners for the Insane, Deaf, Dumb and Blind Asylum, fifty copies of their report; to the State Board of Education, one hundred copies of their report; and the remaining copies of such reports, one-third to the order of the sergeant-at-arms of the Senate, and two-thirds to the order of the sergeant-at-arms of the House, to be by them distributed pro-rata to the members of the Senate and House next to convene.

Sec. 191. An account must be kept by the officers of the executive department and of all public institutions of the State, of all moneys received severally from all sources, and for every service performed and of all moneys disbursed, and a semi-annual report must be made to the Governor under oath.

CHAPTER III.

EXECUTIVE OFFICERS.

Article I. Classification, number and designation of Executive Officers.
" II. Mode of election or appointment, and term of Civil Executive Officers.
" III. Governor.
" IV. Lieutenant Governor.
" V. Secretary of State.
" VI. Auditor.
" VII. Treasurer.
" VIII. Attorney General.
" IX. State Land Agent.
" X. Mineral Land Commissioner.
" XI. Superintendent of Public Instruction.
" XII. State Examiner.
" XIII. Stock Commissioners and Veterinary Surgeon.
" XIV. Sealer of Weights and Measures.
" XV. Inspector of Boilers.
" XVI. Inspector of Mines.
" XVII. Medical Examiners..
" XVIII. Board of Examiners.
" XIX. Other Executive Officers.

ARTICLE I.

CLASSIFICATION, NUMBER, AND DESIGNATION OF EXECUTIVE OFFICERS.

Section 196. Classification of executive officers.
" 197. Military officers.
" 198. Designation and number of civil executive officers.

Sec. 196. Executive officers are either:

1. Civil; or,
2. Military.

Sec. 197. Military officers are designated and their duties prescribed in Title IV., of Part III., of this Code.

Sec. 198. The number and designation of the civil executive officers are as follows: A Governor; a private secretary for the Governor; Lieutenant-Governor; a Secretary of State; a State Auditor; a State Treasurer; an Attorney General; a State Land Agent; a Mineral Land Commissioner; a Superintendent of Public Instruction; a State Examiner; a State Sealer of Weights and Measures; three members of the Board of Pardons; three members of the Board of State Prison Commissioners; a Warden of the State Prison; three members of the State Board of Examiners; four members of the State Board of Land Commissioners; eleven members of the State Board of Education; five members of the State Board of Equalization; a State Veterinary Surgeon; an Inspector of Boilers; one assistant Inspector of Boilers; an Inspector of Mines; a deputy Inspector of Mines; seven members of the Board of Medical Examiners; a State Librarian; such other officers as fill offices created by law for the government of counties, cities, and towns, or for the health, school, election, road, or revenue laws.

ARTICLE II.

THE MODE OF ELECTION OR APPOINTMENT AND TERM OF OFFICE OF CIVIL EXECUTIVE OFFICERS.

Section 200. Certain officers elected.
" 201. State Land Agent.
" 202. Mineral Land Agent.
" 203. State Sealer of Weights and Measures.
" 204. State Board of Equalization.
" 205. State Board of Education.
" 206. Officers of libraries.
" 207. Board of Examiners.
" 208. State Prison Commissioners.
" 209. Board of Pardons.
" 210. Board of Land Commissioners.
" 211. Officers appointed.
" 212. Governor's private secretary.

Sec. 200. The mode of election of the Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, and Superintendent of Public Instruction, is prescribed by the Constitution.

Sec. 201. The State Land Agent is appointed by the Governor, with the consent of the State Board of Land Commissioners, and holds his office during the pleasure of the Board.

Sec. 202. The Mineral Land Commissioner is appointed by the Governor, and holds his office until March 4, 1893.

Sec. 203. The Secretary of State is ex-officio State Sealer of Weights and Measures.

Sec. 204. The Governor, Secretary of State, State Treasurer, State Auditor, and Attorney General, constitute a State Board of Equalization.

Sec. 205. The State Board of Education consists of eleven members, and is constituted as provided in Sections 930 and 931, of this Code.

Sec. 206. The trustees of the State library and the State Librarian are constituted and appointed as prescribed in Chapter III., Title V., of Part III., of this Code.

Sec. 207. The Governor, Secretary of State and Attorney General constitute a Board of Examiners.

Sec. 208. The Governor, Secretary of State and Attorney General constitute a Board of State Prison Commissioners.

Sec. 209. The Secretary of State, Attorney General and State Auditor constitute the Board of Pardons.

Sec. 210. The Governor, Superintendent of Public Instruction, Secretary of State and Attorney General constitute the State Board of Land Commissioners.

Sec. 211. The following executive officers are appointed by the Governor with the consent of the Senate:

1. A State Veterinary Surgeon; an Inspector of Boilers: an assistant Inspector of Boilers; an Inspector of Mines; a deputy Inspector of Mines: and a State Librarian, who shall hold their offices for two years and until their successors are appointed and qualified, unless sooner removed according to law.

2. Members of the Board of Medical Examiners, who shall hold their offices for the term of seven years, except as otherwise provided by law.

Sec. 212. The private secretary of the Governor is appointed by him, and holds office at the Governor's pleasure.

ARTICLE III.

THE GOVERNOR.

Section 220. Powers and duties of Governor.
" *221. To transmit list of appointments to Legislative Assembly.*
" *222. Records in office of.*
" *223. Persons acting as Governor.*
" *224. Salary of Governor.*
" *225. Salary of private secretary.*

Sec. 220. In addition to those prescribed by the Constitution, the Governor has the power and must perform the duties prescribed in this and the following sections:

1. He is to supervise the official conduct of all executive and ministerial officers.

2. He is to see that all offices are filled and the duties thereof performed, or, in default thereof, apply such remedy as the

law allows, and if the remedy is imperfect, acquaint the Legislative Assembly therewith at its next session.

3. He is to make the appointments and supply the vacancies as required by law.

4. He is the sole official organ of communication between the government of this State and the government of any other State or of the United States.

5. Whenever any suit or legal proceeding is pending against this State, or which may effect the title of this State to any property, or which may result in any claim against the State, he may direct the Attorney General to appear on behalf of the State, and may employ such additional counsel as he may judge expedient.

6. He may require the Attorney General or county attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this State.

7. He may require the Attorney General to aid any county attorney in the discharge of his duties.

8. He may offer rewards not exceeding one thousand dollars each, payable out of the general fund, for the apprehension of any convict who has escaped from the State prison, or any person who has committed or is charged with an offense punishable by death.

9. He must perform such duties respecting fugitives from justice as are prescribed by Chapter IV., of Title XII., Part II., Sections 1780 to 1793, of the Penal Code.

10. He must issue and transmit election proclamations, as prescribed in Title II., of Part III., of this Code.

11. He must issue land warrants and patents, as prescribed in Title VIII., of Part III., of this Code.

12. He must, on or before the second Monday of November, in the year eighteen hundred and ninety-two, and in each second year thereafter, deliver to the Secretary of State for publication all biennial reports of officers and boards for the two preceding years.

13. He may require any officer or board to make special reports to him, upon demand in writing.

14. He must discharge the duties of member of the Board of Examiners, of member of the State Board of Education, of member of the State Board of Land Commissioners, of member of the State Board of Equalization, of member of the Board of State Prison Commissioners and of the Board of Commissioners of the Insane, Deaf, Dumb and Blind.

15. He has such other powers and must perform such other duties as are devolved upon him by this Code or any other law of this State.

Sec. 221. Within ten days after the meeting of the Legislative Assembly, the Governor must transmit to it a list of all appointments made by him under the provisions of Section 622, of this Code, made during the recess of the Legislative Assembly.

Sec. 222. The Governor must cause to be kept the following records:

1. A register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application.

2. An account of all his official expenses and disbursements, including the incidental expenses of his department, and of all rewards offered by him for the apprehension of criminals and persons charged with crime.

3. A register of all appointments made by him, with date of commission, names of appointee and predecessor.

Sec. 223. Every provision of the laws of this State in relation to the powers and duties of the Governor, and in relation to acts and duties to be performed by others toward him, extends to the persons performing, for the time being, the duties of Governor.

Sec. 224. The annual salary of the Governor, to include all services rendered ex-officio as member of any board or commission, as now required, or which may be by law hereafter devolved upon him, is five thousand dollars.

Sec. 225. The annual salary of the private secretary of the Governor is twelve hundred dollars.

ARTICLE IV.

LIEUTENANT GOVERNOR.

Section 230. Duties of.
" *231. Compensation of.*
" *232. When acting as Governor.*

Sec. 230. The duties of the Lieutenant Governor are prescribed in Article VII., of the Constitution.

Sec. 231. The Lieutenant Governor receives the same per diem and mileage as the Speaker of the House of Representatives, and that only during the session of the Legislative Assembly.

Sec. 232. When the Lieutenant Governor acts as Governor he is entitled to receive during the time he so acts, the compensation which the Governor, if acting, would be entitled to receive for such time; but during such time he is not entitled, as Lieutenant Governor, to any other compensation or mileage.

ARTICLE V.

OF THE SECRETARY OF STATE.

Section 237. Custody of records.
" *238. Duties of Secretary of State.*
" *239. Distribution of statutes and journals.*
" *240. To mark books distributed.*
" *241. To superintend and take charge of State capitol.*

Section 242. To furnish fuel and stationery.
" *243. Expenses incurred, how paid.*
" *244. Fees.*
" *245. Salary of Secretary.*
" *246. Official bond.*

Sec. 237. The Secretary of State is charged with the custody:

1. Of the enrolled copy of the Constitution.

2. Of all the acts and resolutions passed by the Legislative Assembly.

3. Of the journals of the Legislative Assembly.

4. Of the great seal.

5. Of all books, records, deeds, parchments, maps, and papers kept or deposited in his office pursuant to law.

Sec. 238. In addition to the duties prescribed by the Constitution, it is the duty of the Secretary of State:

1. To attend at every session of the Legislative Assembly for the purpose of receiving bills and resolutions thereof, and to perform such other duties as may be devolved upon him by resolution of the two houses or either of them.

2. To keep a register of and attest the official acts of the Governor.

3. To affix the great seal, with his attestation, to commissions, pardons and other public instruments to which the official signature of the Governor is required.

4. To record in proper books all conveyances made to the State, and all articles of incorporation filed in his office.

5. To receive and record in proper books the official bonds of all the officers whose bonds are fixed by Part III., of this Code, and then deliver the originals to the State Treasurer.

6. To take and file in his office receipts for all books distributed by him, and to direct the county clerks of each county to do the same.

7. To certify to the Governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the Governor.

8. To furnish on demand to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited or recorded in his office.

9. To deliver to the printer entitled to the same at the earliest day practicable after the final adjournment of each session of the Legislative Assembly, copies of all laws, resolutions (with marginal notes), and journals, kept, passed or adopted at such session, with proper indexes to the same.

10. To notify, in writing, the county attorney of the proper county, of the failure of any officer in his county to file in his office the sworn statement of fees received by such officer.

11. To present to the Legislative Assembly, at the com-

mencement of each session thereof, a full account of all purchases made and expenses incurred in furnishing fuel, lights, and stationery.

12. To keep a fee book, in which must be entered all fees, commissions, and compensation of whatever nature or kind by him earned, collected, or charged, with the date, name of payor, paid or unpaid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein.

13. To file in his office descriptions of seals in use by the different State officers, and furnish such officers with new seals whenever required.

14. To discharge the duties of member of the State Board of Examiners, of member of the State Board of Prison Commissioners, of member of the State Board of Equalization, of member of the State Board of Pardons, of member of the State Board of Land Commissioners, of member of State Board of Commissioners of Insane, Deaf, Dumb and Blind, and State Sealer of Weights and Measures, and all other duties required of him by law.

15. To report to the Governor at the time prescribed in Section 187, of this Code, a detailed account of all official actions since his previous reports, and accompanying the report with a detailed statement, under oath, of the manner in which all appropriations for his office have been expended; and to report as provided in Section 191, of this Code.

16. To receive, designate and record marks and brands as provided in Section 1951, of this Code, and trade marks as provided in Section 2116, of this Code.

17. He must distribute of the bound volumes of the decisions of the Supreme Court, as soon as he receives them:

1. To the State Librarian for the purposes mentioned in Section 1639, of this Code, who must distribute them as follows:

2. To the library of congress and the State library, each two copies.

3. To the Governor of this State, and to the United States district judge for this State, to each of the justices of the Supreme Court, and to each of the judges of the District Courts of the State, one copy. To the Attorney General one copy, to each county attorney one copy, and to each clerk of the District Court, one copy.

Sec. 239. Immediately after the laws, resolutions, and journals mentioned in subdivision 9 of the preceding section, are bound, the Secretary of State must distribute the same as follows:

1. To each department of the government at Washington and of the government of this State, one copy.

2. To the library of Congress and the State library, two copies each.

3. To each of the states and territories, one copy.

4. To the members of Congress, to the United States district judge, to each of the judges of the Supreme and District Courts, and to each of the State officers of this State, one copy.

5. To the Lieutenant Governor, each member of the Legislative Assembly, secretary of the Senate; and chief clerk of the House of Representatives at the session at which such laws and journals were adopted, one copy.

6. To each of the incorporated colleges of the State, and to the State University, one copy.

7. To the county clerk of each county three copies for the use of the county.

8. To each county attorney and to each clerk of the District Court, one copy.

Sec. 240. The Secretary of State must indelibly mark each book distributed to officers in this State (except legislative officers), with the name of the county to which, and the official designation of the officer to whom it is sent. Such marked books remain the property of the State, and must be, by the officers receiving them, delivered to their successors.

Sec. 241. The Secretary of State is the superintendent and has charge of the State capitol, or rooms or buildings hired for that purpose, and he must keep the same, together with all property therein, in good order and repair, under the directions of the Board of Examiners.

Sec. 242. It is the duty of the Secretary of State to receive and keep all supplies and articles purchased by the Board of Examiners as a board of supplies, and must issue to any State officer or board, on the requisition of the Board of Examiners, any stationery, book or other supplies, and take a receipt therefor, and file said requisition and receipt in his office. He must keep a book called a "Book of Supplies," and enter therein a complete list of all stationery, books, articles or other supplies furnished him under contracts made by such Board, making a separate list of each class of articles, and all purchases made by the Board, the amount and cost of each article and the amount and cost of each article furnished each State officer or board, and each member of the Legislative Assembly.

He must embody in his report to the Legislative Ansembly a statement taken from such book, showing the amount of supplies purchased and disposed of.

Sec. 243. The expenses incurred by the Secretary of State in carrying into effect the provisions of Sections 238, 239, 240, 241 and 242, must be audited by the Board of Examiners and paid out of any moneys specially appropriated for the purpose.

Sec. 244. The Secretary of State, for services performed in his office, must charge and collect the following fees:

1. For a copy of any law, resolution, record or other document or paper on file in his office, twenty cents per folio.

2. For affixing certificate and seal of State, one dollar; for affixing seal and signature, without certificate, fifty cents.

3. For filing articles of incorporation, ten dollars.

4. For recording articles of incorporation, twenty cents per folio.

5. For issuing each certificate of incorporation, three dollars.

6. For receiving and recording each official bond, two dollars.

7. For each commission or other document signed by the Governor and attested by the Secretary of State (pardons and military commissions excepted), five dollars.

8. For each patent for land issued by the Governor, if for one hundred and sixty acres or less, one dollar, and for each additional one hundred and sixty acres or fraction thereof, one dollar.

9. For searching records and archives of the State, one dollar.

10. For filing each trade mark, three dollars.

11. For filing and recording notice of appointment of agent, five dollars.

12. For filing and recording notice of removal of place of business, five dollars.

13. For filing certificate of increase or decrease of capital stock, five dollars.

14. For issuing certificate of increase or decrease of capital stock, five dollars.

15. For filing certificate of continuance of existence, five dollars.

16. For issuing certificate of continuance of existence, three dollars.

17. For receiving, designating and recording marks and brands, two dollars.

18. For recording miscellaneous records, papers, or other documents, twenty cents per folio, and for filing any paper not otherwise provided for, twenty-five cents. But no member of the Legislative Assembly or State, or county officer can be charged for any search relative to matters appertaining to the duties of their offices; nor must they be charged any fee for a certified copy of any law or resolution passed by the Legislative Assembly relative to their official duties. All fees must be paid in advance and when collected by him must be paid to the State Treasurer at the end of each month for the State library fund.

Sec. 245. The annual salary of the Secretary of State, to include all services rendered ex-officio as member of any board or commission as now required, or which may be by law hereafter devolved upon him, is three thousand dollars.

Sec. 246. The Secretary of State must execute an official bond in the sum of ten thousand dollars.

ARTICLE VI.

STATE AUDITOR.

Section 254. General duties of.
" *255. Certificate of settlement.*
" *256. Special duty as to school fund.*
" *257. Order in which warrants must be drawn.*
" *258. Proceedings against defaulters.*
" *259. Salary of Auditor, and duty as to fees.*
" *260. To have access to offices.*
" *261. Official bond.*

Sec. 254. It is the duty of the State Auditor:

1. To superintend the fiscal concerns of the State:

2. To report to the Governor, on the first Monday of November next preceding each regular session of the Legislative Assembly, a statement of the funds of the State, its revenues, of the public expenditures during the two preceding fiscal years, together with a detailed estimate of the expenditures to be defrayed from the treasury for the two ensuing fiscal years, specifying therein each object of expenditure, and distinguishing between such as are provided for by permanent or temporary appropriation, and such as must be provided for by a new statute, and suggesting the means from which such expenditures are to be defrayed, and to make a semi-annual report to the Governor, as provided in Section 191, of this Code.

3. To accompany his biennial reports with tabular statements, showing: First, The amount of each appropriation for the two preceding fiscal years, the amount expended, and the balance, if any. Second, The amount of revenue chargable to each county for such years, the amount paid, and the amount unpaid or due therefrom.

4. When requested, to give information in writing to either house of the Legislative Assembly relating to the fiscal affairs of the State or the duties of his office.

5. To suggest plans for the improvement and management of the public revenues.

6. To keep and state all accounts in which the State is interested.

7. To keep an account of all warrants drawn upon the Treasurer, and a separate account under the head of each specific appropriation, showing at all times the unexpended balance of such appropriation.

8. To keep an account between the State and the State Treasurer, and therein charge the State Treasurer with the balance in the treasury when he came into office, and with all

moneys received by him, and credit him with all warrants drawn on and paid by him.

9. To keep a register of warrants showing the fund upon which they are drawn, the number, in whose favor, for what service, the appropriation applicable to the payment thereof, when the liability accrued, and a receipt from the person to whom the warrant is delivered.

10. To audit all claims against the State in cases where there are sufficient provisions of law for the payment thereof.

11. To examine and settle the accounts of all persons indebted to the State, and certify the amount to the Treasurer, and upon presentation and filing of the Treasurer's receipt therefor, to give such person a discharge and charge the Treasurer therewith.

12. In his discretion to require any person presenting an account for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it.

13. To require all persons who have received any moreys belonging to the State, and have not account therefor to settle their accounts.

14. In his discretion to inspect the books of any persons charged with the receipt, safe keeping, or disbursement of public moneys.

15. In his discretion to require all persons who have received moneys or securities, or have had the disposition or management of any property of the State of which an account is kept in his office, to render statements thereof to him; and all such persons must render such statement at such times and in such form as he may require.

16. To direct and superintend the collection of all moneys due the State, and institute suits in its name for all official delinquencies in relation to the assessment, collection, and payment of the revenue, and against persons who by any means have become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the State; of which suits the courts of the county in which the seat of government may be located, have jurisdiction, without regard to the residence of the defendants.

17. To draw warrants on the State Treasurer for the payment of moneys directed by law to be paid out of the treasury; but no warrant must be drawn unless authorized by law, and upon an unexhausted specific appropriation provided by law to meet the same. Every warrant must be drawn upon the fund out of which it is payable, and specify the service for which it is drawn, when the liability accrued, and the specific appropriation applicable to the payment thereof.

18. To furnish the State Treasurer with a list of warrants drawn upon the treasury, specifying the amount and number of each warrant and the name of the person in whose favor it is drawn.

19. To procure and have printed all State licenses and to sign the same and furnish the State Treasurer with such licenses and charge him with the same.

20. To prepare the statistics and matters mentioned in Chapter XVI., Title VII., Part III., of this Code.

21. To authenticate with his official seal all drafts and warrants drawn by him, and all copies of papers issued from his office.

22. To collect and pay into the State treasury all fees received by him.

23. To perform the duties of a member of the State Board of Equalization, and such other duties as are prescribed by law.

Sec. 255. The certificate mentioned in Subdivision 11, of Section 254, must show by whom the payment is to be made, the amount thereof, and the fund into which it is to be paid, and must be numbered in order, beginning with number one at the commencement of each fiscal year.

Sec. 256. The State Auditor must keep a separate account of the school fund, and of the interest and income thereof, together with such moneys as may be raised by special tax or otherwise for school purposes. He must, on the first of February and the first day of August of each year, report to the Superintendent of Public Instruction a statement of the securities belonging to the school fund, of the moneys in the treasury subject to apportionment, and the several sources from which they accrued. He must draw his warrant on the State Treasurer in favor of any county treasurer whenever such county treasurer presents, with his indorsement, an order drawn by the Superintendent of Public Instruction in favor of such county.

Sec. 257. All warrants for claims which have been audited by the Board of Examiners and filed in his office must be drawn in the order of the numbers placed upon them by that board.

Sec. 258. Whenever any person has received moneys, or has money or other personal property which belongs to the State by escheat or otherwise, or has been intrusted with the collection, management, or disbursement of any moneys, bonds, or interest accruing therefrom, belonging to or held in trust by the State, and fails to render an account thereof to, and make settlement with, the State Auditor within the time prescribed by law, or when no particular time is specified, fails to render such account and make settlement, or who fails to pay into the State treasury any moneys belonging to the State, upon being required so to do by the State Auditor, within twenty days after such requisition, the State Auditor must state an account with such person, charging twenty-five per cent. damages, and interest at the rate of ten per cent. per annum from the time of the failure; a copy of which account in any suit therein is prima facie evidence of the things therein stated; but in case the State Auditor cannot, for want of information, state an account, he may in any action brought by him aver that fact, and allege generally the amount of money or other property which is due to or which belongs to the State.

Sec. 259. The annual salary of the State Auditor, to include all services rendered ex-officio as member of any board or commission as now required, or which may be by law hereafter devolved upon him, is three thousand dollars, and all fees received by him shall be covered into the State treasury.

Sec. 260. The State Auditor shall have access to all offices of the State for the inspection of such books, papers, and accounts thereof as may concern his duties.

Sec. 261. The State Auditor must execute an official bond in the sum of thirty thousand dollars.

ARTICLE VII.

TREASURER.

Section 270. General duties.
" 271. General fund.
" 272. Duties as to warrants.
" 273. Not allowed to use public moneys: may make special deposits.
" 274. Posting list of warrants.
" 275. Must keep books open.
" 276. Salary.
" 277. Access to offices.
" 278. Quarterly reports to Governor.
" 279. Bond.
" 280. Temporary suspension of Treasurer.
" 281. Appointment in place of suspended Treasurer.

Sec. 270. It is the duty of the State Treasurer:

1. To receive and keep all moneys belonging to the State, and not required to be received and kept by some other person.

2. To file and keep the certificates of the State Auditor delivered to him when moneys are paid into the treasury.

3. To deliver to each person paying money into the treasury and to the State Auditor a duplicate receipt showing the amount, the sources from which the money accrued, and the funds into which it is paid, which receipts must be numbered in order, beginning with number one at the commencement of each fiscal year.

4. To pay warrants drawn by the State Auditor out of the funds upon and in the order in which they are drawn.

5. Upon payment of any warrant, to take upon the back thereof the receipt of the person to whom it is paid, and file and preserve the same.

6. To keep an account of all moneys received and disbursed.

7. To keep separate accounts of the different funds.

8. To report to the State Auditor on the last day of each month the amount disbursed for the redemption of bonds and in payment of warrants during the month; which report must show the date and number of such bonds and warrants, the funds out of which they were paid, and the balance of cash on hand in the treasury to the credit of each fund.

9. At the request of either house of the Legislative Assembly, or of any committee thereof, to give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office.

10. To report to the Governor at the time prescribed in Section 187, of this Code, the exact balance in the treasury to the credit of the State, with a summary of the receipts and payments of the treasury during the two preceding fiscal years; and to make a semi-annual report to the Governor as provided in Section 191, of this Code.

11. To authenticate with his official seal all writings and papers issued from his office.

12. To discharge the duties of a member of the Board of Equalization, and such other duties as may be imposed upon him by law.

Sec. 271. The general fund consists of moneys received into the treasury and not specially appropriated to any other fund.

Sec. 272. It is the duty of the State Treasurer to keep a book in which he must enter all warrants presented for payment, giving the names of the owners, and the number and amounts of the warrants, and they must be paid in the order in which they are presented.

Sec. 273. The State Treasurer must keep all moneys belonging to the State in his own possession until disbursed according to law. He must not place the same in the possession of any person to be used for any purpose; nor must he loan or in any manner use or permit any person to use the same, except as provided by law; but nothing in this section prohibits him from making special deposits for the safe keeping of public moneys.

Sec. 274. The State Treasurer must quarterly post upon the door of his office, a list of all warrants that he may have funds in the treasury to redeem or pay, the payment of which has not been demanded during the last quarter.

Sec. 275. The Treasurer must keep his books open at all times for the inspection of the Governor, State Examiner, Board of Examiners, the members of the Legislative Assembly, and any committee appointed to examine them by either house thereof.

Sec. 276. The annual salary of the State Treasurer, to include all services rendered ex-officio as member of any board or commission as now required, or which may be hereafter by law devolved upon him, is three thousand dollars.

Sec. 277. The State Treasurer shall have full access to all offices of the State for inspection of such books, papers, and accounts thereof as concern his duties.

Sec. 278. The State Treasurer must keep a separate account of each fund in his hands, and must at the end of each quarter of the fiscal year report to the Governor in writing under oath, the amount of all moneys in his hands to the credit of every such fund, and the place or places where the same is kept or deposited, and the number and amount of every warrant paid or redeemed by him during the quarter. The Governor must verify said report and cause the same to be immediately published in at least one newspaper printed at the seat of government.

Sec. 279. The State Treasurer must execute an official bond in the sum of one hundred and fifty thousand dollars.

Sec. 280. The State Board of Examiners, if, upon examination, find that the books of the State Treasurer do not correspond with the amount of funds on hand, or do not show the actual condition of the funds, or if it appear to said Board that any moneys belonging to the State have been embezzled, diverted, or in any manner taken from the treasury, without authority of law, or that the State Treasurer has been guilty of negligence in keeping his books, or of taking care of the public moneys, must certify the fact to the Governor, who, upon receipt of such certificate, must forthwith take possession of all books, moneys, papers and other property belonging to the State which have come into the possession of such State Treasurer, by virtue of his office or otherwise, and must temporarily suspend him from his office of State Treasurer.

Sec. 281. The State Board of Examiners must thereupon procure the services of an expert to examine the books, papers, and all matters connected with the office of the State Treasurer so suspended, and if it appears to said Board on such examination that such State Treasurer has embezzled or converted to his own use the public moneys, or has been negligent in keeping his books, or in taking care of the public moneys, the Governor, on the certificate of said Board of that fact, must appoint another person to fill the place of such suspended State Treasurer, and such person so appointed must execute an official bond, and enter upon the office of State Treasurer, as provided by law.

The Governor must report all his acts done under this and the next preceding section, to the next succeeding Legislative Assembly, and the State Treasurer so appointed holds his office until the suspended State Treasurer is restored, or his successor is elected and qualified.

ARTICLE VIII.

ATTORNEY GENERAL.

Section 285. General duties.
" 286. Salary.
" 287. Official bond.
" 288. Duty as to escheats.

Sec. 285. It is the duty of the Attorney-General:

1. To attend the Supreme Court and prosecute or defend all causes to which the State or any officer thereof in his official capacity, is a party, and all causes to which any county may be a party, unless the interest of the county is adverse to the State, or some officer thereof acting in his official capacity.

2. After judgment in any of the causes referred to in the preceding subdivision, to direct the issuing of such process as may be necessary to carry the same into execution.

3. To account for and pay over to the proper officer all moneys which may come into his possession belonging to the State or to any county.

4. To keep a register of all cases in which he is required to appear, which must, during business hours, be open to the inspection of the public, and must show the county, district and court in which the cases have been instituted and tried, and whether they are civil or criminal; if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment, of any process issued thereon, and whether satisfied or not; if not satisfied, the return of the sheriff; and if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution thereof, if the same has been executed, and if not executed, of the reason of the delay or prevention; and must deliver the same to his successor in office.

5. To exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices, and from time to time require of them reports as to the condition of public business intrusted to their charge.

6. To give his opinion in writing without fee, to the Legislative Assembly, or either house thereof, and to any State officer, board or commission, any county attorney, and to the Board of County Commissioners of any county of the State, when required upon any question of law relating to their respective offices.

7. When required by the public service, or directed by the Governor, to assist the county attorney of any county in the discharge of his duties.

8. To bid upon and purchase in the name of the State and under the direction of the Board of Examiners, any property offered for sale under execution issued upon judgments in

favor of or for the use of the State, and to enter satisfaction, in whole or in part, of such judgments as the consideration for such purchases.

9. Whenever the property of a judgment debtor in any judgment mentioned in the preceding subdivision has been sold under a prior judgment, or is subject to any judgment, lien, or incumbrance taking precedence of the judgment in favor of the State, under the direction of the Board of Examiners to redeem such property from such prior judgment, lien or incumbrance; and all sums of money necessary for such redemption must, upon the order ot the Board of Examiners, be paid out of any money appropriated for such purposes.

10. When in his opinion it is necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute in behalf of the State, such suits or other proceedings as are necessary to set aside and annul all conveyances fraudulently made by such judgment debtors, the cost necessary to the prosecution must, when allowed by the Board of Examiners, be paid out of any appropriations for the prosecution of delinquents.

11. To discharge the duties of a member of the Board of Examiners, Board of Pardons, State Board of Land Commissioners, State Board of Education, State Board of Equalization, Board of State Prison Commissioners, State Board. of Commissioners for the Insane, Deaf, Dumb and Blind, and other duties prescribed by law.

12. To report to the Governor at the time prescribed by Section 187, of this Ccde, the condition of the affairs of his department, and to accompany the same with a copy of his docket and of the reports received by him from county attorneys, and to report to the Governor as provided in Section 191, of this Code.

Sec. 286. The annual salary of the Attorney General, to include all services rendered ex-officio as member of any board or commission as now required, or which may be hereafter devolved upon him by law, is three thousand dollars.

Sec. 287. The Attorney General must execute to the State an official bond in the sum of ten thousand dollars.

Sec. 288. It is the duty of the Attorney General to institute investigation for the discovery of all real and personal property which may have escheated or should escheat to the State, and for that purpose has the power to cite any and all persons before any of the District Courts of this State to answer investigations and render accounts concerning said property, real or personal, and to examine all books and papers of any and all corporations. When any real or personal property is discovered, which should escheat to the State, the Attorney General must institute suit in the District Court of the county where said property shall be situated, for the recovery, to escheat the same to the State. The proceedings in all such actions shall be those provided for in Title VIII., Part III., Code of Civil Procedure.

ARTICLE IX.

STATE LAND AGENT.

Section 293. Term of Office.
" 294. General Duties.
" 295. Salary.
" 296. Bond.

Sec. 293. The Governor, with the consent of the State Board of Land Commissioners, must appoint a State Land Agent, who shall hold his office at the pleasure of the Board.

Sec. 294. It is the duty of the State Land Agent:

1. To select, subject to the rules and regulations presented by the Secretary of the Interior of the United States, and cause to be conveyed to the State of Montana, all school and indemnity lands, and all public lands donated to the State, for various institutions and public buildings, by virtue of an "Act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and State governments, and to be admitted into the Union on an equal footing with the original States, and to make donation of public lands to said States," passed by the Congress of the United States and approved February 22, 1889.

2. To discharge all duties relating to the public lands imposed upon him by Title VIII., Part III., of this Code.

3. To perform such other duties as may be required of him by the State Board of Land Commissioners and by law.

4. He is under the direction and control of the State Board of Land Commissioners and must act under the direction of such board in the selection of lands, and report to that board.

Sec. 295. The annual salary of the State Land Agent for all services rendered in any capacity whatever, is three thousand dollars.

Sec. 296. The State Land Agent must execute an official bond in the sum of twenty thousand dollars.

ARTICLE X.

MINERAL LAND COMMISSIONER.

Section 305. Term of office.
" 306. Duties.
" 307. Salary and expenses.

Sec. 305. The Governor must appoint a Mineral Land Commissioner, whose term of office expires on March 4, 1893, unless otherwise provided by law. The Governor may at any time remove such Commissioner from office.

Sec. 306. It is the duty of the Mineral Land Commissioner:

1. To prepare and publish a clear and concise statement of the facts in respect to the danger of mineral bearing lands of Montana becoming the property of any railroad or corporation.

2. To cause to be collected and arranged the decisions of the courts bearing upon this subject and such other facts as show the necessity of Congressional action, and prepare for introduction into Congress such a bill or bills as will save, if passed, not only the discovered but the undiscovered mines and all the reserved mineral lands to the people, and have these facts placed in the hands of the President and each member of Congress and the United States Senate, and have their attention called personally to this matter, and have these facts published throughout Montana and throughout the country, as far as practicable.

3. To secure proofs as to the mineral character of the mountainous portions of Montana claimed by the railroad company, and preserve either the original or certified copies of such proofs.

4. To employ counsel to protect the interests of Montana in her mines and mineral lands before the courts and United States land offices whenever he may deem the same is in danger.

5. To prepare, or cause to be prepared, a map or maps showing the mountainous mineral lands within the limits of the grant of the Northern Pacific Railroad company in Montana, and showing such of these lands as have already been selected by the company, and in every way to protect the mineral lands of Montana and to secure such Congressional action as will save all these mineral lands and the mines contained therein from becoming the property of any railroad company.

6. To guard and care for the interest of the State of Montana in all its grants of public lands from the Federal government for school or other purposes; and he must at all times as to this branch of his duties be under the control of the State Board of Land Commissioners.

Sec. 307. His annual salary is $3,000, which with the necessary expenses, not to exceed $3,000 per annum, including counsel fees, must be paid by the Treasurer of Montana, upon the proper vouchers being furnished and approved by the Board of Examiners.

ARLICLE XI.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

Section 312. Duties.
" *313. Salary.*
" *314. Bond.*

Sec. 312. The duties of the Superintendent of Public Instruction are prescribed in Title III., of Part III., of this Code.

Sec. 313. The annual salary of the Superintendent of Public Instruction is twenty-five hundred dollars.

Sec. 314. The Superintendent of Public Instruction must execute an official bond in the sum of ten thousand dollars.

ARTICLE XII.

STATE EXAMINER.

Section 320. Term of office.
" 321. Duties.
" 322. Reports.
" 323. Officers and employes to afford reasonable facilities for investigation.
" 324. Powers.
" 325. Salary.
" 326. Bond.

Sec. 320. There shall be a State Examiner, who shall be appointed by the Governor and confirmed by the State, and shall hold his office for the term of four years, and reside at the seat of government.

Sec. 321. The duties of the State Examiner are:

1. To examine once every six months the books and accounts of the Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Public Instruction, clerk of the Supreme Court, District Court clerks, county attorneys, county treasurers, county assessors, county clerks. county superintendents of common schools, sheriffs, public administrators, coroners, county surveyors and Boards of County Commissioners of each county.

2. To examine the books and accounts of all public institutions under the control of the State, and of all private institutions with which the State has any dealing, once in six months.

3. To examine once every six months the accounts and transactions of every State or county officer with any bank or banking institution in which is deposited any money belonging to the State or any county.

4. To prescribe the general methods and details of accounting, for the receipt and disbursement of all moneys belonging to the State or counties, and to require of all officers an adherence to such general method and detail, as are required by law, or prescribed by him.

5. To visit each and every office of the officers and institutions named in this section at least twice in each year, and at such times to examine the books, accounts and vouchers in said offices, to verify statements of receipts, expenditures and indebtedness, and to examine and pass upon the character and amount of any commissions percentages or charges for services, exacted by any officer, and of all claims allowed by Board of County Commissioners, without authority of law.

6. To visit once each year without previous notice, each of the banks, banking corporations and savings banks incorporated under the laws of this State, and private banks, investment and loan companies carried on by persons or associations, and to examine into their affairs and ascertain their financial condition ; to inspect and verify the value and amount of their securities and assets, and to inquire into any violation of laws governing such banks and institutions.

7. To report to the Governor the result of his examinations on the first Monday of May and the first Monday of November of each year. He must also make a report upon any particular matter at any time when required by the Governor.

8. To perform such other duties as are prescribed by law.

Sec. 322. The State Examiner must at any time at the request of any Board of County Commissioners, immediately investigate the books and accounts of any county officer as required by said board, and if directed by the Governor must in like manner examine the books and accounts of any state officer, board or institution, or Board of County Commissioners, and within ten days after the completion of any such, or any examination, must report in writing to the Governor or to the Board of County Commissioners, as the case may be, the result of his examination, and if any violation of law or non-performance of duty is found on the part of any officer, such officer must be proceeded against by the Attorney General, in the case of a State officer, and by the county attorney, in the case of a county officer, as provided by law.

Sec. 323. All officers of the State and county and all officers and employes of all banking and other institutions mentioned in this Article, must afford all reasonable facilities for the investigations provided for in this article, and all such officers, managers and employes must make returns and exhibits to the Examiner under oath, in such form and in such manner as he may prescribe. The penalty for the violation of the provisions of this section are to be found in Section 487, of the Penal Code.

Sec. 324. The State Examiner has power to examine any books, papers, accounts and documents in the office or possession of any county or State officer, or banking or other institution referred to in this Article, and to send for persons and papers, and to examine under oath, any and all persons concerning the same.

Sec. 325. The annual salary of the State Examiner for all services rendered in any capacity whatever, is three thousand dollars.

Sec. 326. The State Examiner must execute an official bond in the sum of ten thousand dollars.

ARTICLE XIII.

STOCK COMMISSIONERS AND STATE VETERINARY SURGEON.

Section 327. Duties.

Sec. 327. The Stock Commissioners and State Veterinary Surgeon must be appointed, hold their offices, discharge the duties, have the powers, and be entitled to compensation as provided in Articles II. and V., Chapter V., Title VII., Part III., of this Code.

ARTICLE XIV.

SEALERS OF WEIGHTS AND MEASURES.

Section 330. General duties of.
" *331. County clerks ex-officio sealers.*
" *332. Duties of county sealers.*
" *333. Standards for county sealers.*
" *334. Standards to be marked.*
" *335. Standards, county sealers to compare, etc.*
" *336. Fees.*

Sec. 330. The State Sealer of Weights and Measures has the general supervision of the weights and measures of the State. He must take charge of the standards, procure, at the expense of the State, any that may be necessary, and see that they are kept in, and in no case removed from a fire proof vault in his office, except for the purpose of comparing and copying. He must correct the standards of the cities and counties, provide them with necessary standards, balances, and other means of adjustment, and as often as once in ten years compare the same with those in his possession. The standard weights and measures of the State are prescribed in Chapter VI., Title VII., Part III., of this Code.

Sec. 331. The county clerks are ex-officio county sealers of weights and measures of their respective counties.

Sec. 332. The county sealers must keep in their offices the standards of weights and measures for their respective counties.

Sec. 333. Copies of the original standards, to be made of such material as the State Sealer directs, must be deposited by him in the office of the county sealers of the respective counties of this State, at the expense of the counties, which are severally responsible for the preservation of the copies respectively delivered to them.

Sec. 334. The State Sealer must cause to be impressed on each of the copies of such original standards the letter "C" to indicate the word correct, and such other device as he may direct for the particular county; which device must be recorded in the State Sealer's office, and a copy thereof delivered to the respective county sealers.

Sec. 335. The county sealers must compare all weights and measures which are brought to them for that purpose, with the copies of the standards in their possession, and when the same are found or made to conform to the legal standards, the officer comparing them must seal and mark them as correct.

Sec. 336. Each county sealer may receive for his services for the use of the county such fees as may be fixed by the State Sealer, to be paid by the persons having weights or measures sealed and approved, which fees must be uniform for each county of the State. The Board of County Commissioners must furnish him the necessary tools, marks and brands to be used by him as county sealer.

ARTICLE XV.

INSPECTOR OF BOILERS.

Section 340. Appointment. Salary.
" *341. Qualifications.*
" *342. Assistant Inspector.*
" *343. Adoption of rules.*
" *344. Inspection of boilers.*
" *345. Same.*
" *346. Same—assistant may act.*
" *347. Examination may be made at any time.*
" *348. Duty to permit inspection.*
" *349. Classification of licenses.*
" *350. Classes defined.*
" *351. License revoked. Publication of notice of time of application.*
" *352. Certificate of inspection.*
" *353. Fee of inspectors.*
" *354. Re-examination for license.*
" *355. A board to re-examine applicants.*
" *356. Exemptions from license.*
" *357. Fees and report to Governor.*
" *358. Liability for unlawful use.*
" *359. Penalties.*

Sec. 340. There must be appointed by the Governor, by and with the advice and consent of the Senate, one Inspector of Boilers, whose duty it is to inspect all steam boilers now in use in the State, not subject to inspection under the laws of the United States, and to examine and grant licenses to steam engineers entrusted with the care and management of steam boilers and steam machinery. The salary of the Inspector of Boilers is twenty-four hundred dollars per year, and his term of office is four years, unless sooner removed by the Governor. The Inspector of Boilers must execute an official bond in the sum of five thousand dollars.

Sec. 341. No person is eligible to hold the office of Inspector of Boilers and steam machinery who has not had at least five years of actual practice in the operations of steam engines, steam boilers and steam machinery, or who is directly or indirectly interested in the manufacture or sale of boilers or steam machinery, or any patented article required to be sold or in general use in the construction of steam boilers or steam engines.

Sec. 342. There shall be an assistant inspector, to be called the Assistant Inspector of Boilers. Such Assistant Inspector must be a person who has had at least four years experience in the practical operation of steam engines and boilers, and he must be a person of temperate habits and good character and qualified to perform the duties of his office. He shall be appointed by the Governor, by and with the consent and advice of the Senate, and is subject to removal at the will of the Governor. The salary of the Assistant Inspector is eighteen hundred dollars per year. The Assistant Inspector must execute an official bond in the sum of twenty-five hundred dollars.

Sec. 343. The Inspector of Boilers must have his office at the seat of government, and the Inspector and Assistant Inspector must adopt rules as nearly uniform as possible for the inspection of steam boilers and steam machinery, and prescribe the nature and extent of the examination of applicants for licenses, and adopt such rules for the issuing thereof as are required by the provisions of this Article, and must adopt such rules as they may deem necessary to carry into effect the provisions of this Article, and distribute copies of such rules among the engineers and superintendents of mines and mining companies of the State, and all persons having charge or control of steam machinery.

Sec. 344. The Inspector of Boilers must inspect all steam boilers and steam generators before the same are used, except in the case of new boilers, which must be inspected within ninety days after they are put in use, unless accompanied by a certificate that such boiler has been inspected by a regular State inspector, and all boilers must be inspected at least once in every year. And the Inspector of Boilers must subject all boilers to hydrostatic pressure. and satisfy himself by a thorough internal and external examination, that the boilers are well made and of good and suitable materials; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat are of the proper dimensions and free from obstructions; that the flues are circular in form; that the fire line of the furnace is at least two inches below prescribed minimum water line of the boilers; that the arrangement for delivering the feed water is such that the boilers cannot be injured thereby, and that such boilers and their steam connections may be safely employed without danger to life.

Sec. 345. He must also satisfy himself that the safety valves are of suitable dimensions, sufficient in number and area, and properly arranged, and that the safety valve weights are properly adjusted, so as to allow no greater pressure in the boilers than the amount prescribed by the inspection certificate; that there are a sufficient number of gauge cocks properly inserted to indicate the amount of water, and suitable guages that will correctly record the pressure of steam; and adequate and certain provisions for an ample supply to feed the boilers at all times, and that suitable means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts of the boilers when they are under pressure of steam. In subjecting boilers to the hydrostatic test, the inspector must assume one hundred and twenty-five pounds to the square inch as the maximum pressure allowable as a working pressure for new boilers of forty-two inches in diameter, made in the best manner, of plates one-fourth of an inch thick, and of good material; but the Inspector must rate the working power of all high-pressure boilers according to their strength as compared with this standard, and in all cases the test applied must exceed the working pressure allowed, in the ratio of one hundred to seventy-five. Should the Inspector be of the opinion that any boiler, by reason of its construction, or material, will not safely allow so high a working pressure, or will allow a greater working pressure than is herein provided, he may, for reasons to be stated specifically in his certificate, fix the pressure of such boiler at more or less than three-fourths of the test pressure, as the case may be.

Sec. 346. No boiler or steam pipe, nor any of the connections thereto must be approved which is made in whole or in part of bad material, or is unsafe from any cause Nothing herein shall be construed to prevent the use of any boiler or steam generator which may not be constructed of riveted iron or steel plates, when the Inspector has satisfactory evidence that such boiler or steam generator is equal in strength to and as safe from explosion as boilers of the best quality, constructed of iron or steel plates. In any case where for good cause the Inspector is unable to make any such inspection or examination of any steam boiler, it is the duty of the Assistant Inspector to proceed and act in accordance with the requirements of this Article as fully as the Inspector is empowered to do.

Sec. 347. In addition to the annual inspection, it is the duty of the Inspector, or of the Assistant Inspector, to examine at proper times, when in their opioin such examination is necessary, all such boilers as shall have become unsafe from any cause, and to notify the owner or the person using such boilers of any defect and what repairs are necessary to render them safe.

Sec 348. It is the duty of the owners or managers of steam boilers to allow the Inspectors free access to the same, and the engineer operating the same must assist the Inspectors in their examinations and point out any defects they may know in the boilers or machinery in their charge. Any engineer not complying with this section shall have his license revoked or be suspended.

Sec. 349. No person must be granted a license to operate steam boilers or steam machinery under the provisions of this Article who has not been examined by an Inspector and found competent to perform the duties of an engineer and receive from such Inspector a written or printed license so to act. Any person who operates any steam boiler or steam engines without first obtaining a license from an Inspector or Assistant Inspector is guilty of a misdemeanor.

Sec. 350. Engineers must be divided into three classes, namely: First-class engineers, second-class engineers and third-class engineers. No license must be granted to any person to perform the duties of "first-class engineer," who has not taken and subscribed an oath that he has had at least three years experience in the operation of steam boilers and steam machinery, or whose knowledge and experience is not such as to justify the belief that he is competent to take charge of all classes of steam boilers and steam machinery. No license must be granted to any person to act as "second-class engineer" who has not taken and subscribed an oath that he has had at least two years experience in the operation of steam boilers and steam machinery and competent to take charge of all classes of steam boilers and steam machinery, not exceeding one hundred horse power. No license must be granted to any person to act as "third-class engineer" who has not served at least one year as fireman under a competent engineer, and found upon examination to be sufficiently acquainted with the duties of an engineer to be trusted with steam boilers and steam machinery, not exceeding twenty-horse power. All firemen who have charge of steam boilers as to the regulation of feed, water and fuel, where the boilers are so situated as not at all times to be under the eye of the engineer in charge, are required to pass a "third-class engineer's" examination and procure the same kind of license.

Sec. 351. Whenever complaint is made against an engineer holding a license from the Inspector, that he, through negligence, want of skill, or inattention to duty, permitted his boiler to burn, or otherwise to become in a bad condition, or that he has been found intoxicated while on duty, it is the duty of the Inspector or Assistant Inspector to make a thorough investigation of the charge, and upon satisfactory proof of such charge to revoke the license of such engineer. The Inspector and Assistant Inspector must, as often as convenient, publish a notice in some suitable newspaper, stating upon what days they will be in certain specified localities, and that they will then, and at the time and place specified in such notice, receive applications and make examinations for the purpose of granting engineers' certificates, and that they will examine all boilers subject to inspection in the vicinity of the place appointed.

Sec. 352. In making the inspection of boilers and machinery herein provided for, the Inspectors may act jointly or separately: but the Inspector or Assistant Inspector, making such inspection, must in all cases subscribe and make oath to the certificate of inspection, and report such action. Any Inspector or Assistant Inspector who wilfully and falsely certifies regarding any steam boilers or their attachments, or grants a license to any person to act as engineer, contrary to the provisions of this article, is punishable under the provisions of Section 385, of the Penal Code.

Sec. 353. The Inspector or Assistant Inspector is authorized to charge a fee of ten dollars for the inspection of each single boiler and its steam connections, and five dollars for each additional boiler, when connected, which fee to be payable at the time of the delivery of the Inspector's certificate of inspection. The fee for the examination of applicants for engineer's license is seven dollars and fifty cents for first-class engineers, five dollars for second-class engineers, and three dollars for third-class engineers; to be paid at the time of application for license. In case of the failure of an applicant to pass a successful examination, ninety days must elapse before he can again be examined as an applicant for license in the class for which he was examined. But the said Inspector may grant to an applicant a lower grade of license than that applied for upon such examination. All certificates of inspection and engineer's license must be displayed in some conspicuous place in the engine room.

Sec. 354. If any person who has applied for a license as a first or second or third-class engineer, under the provisions of this Article, and has been rejected, feels aggrieved, he may at any time after the lapse of ten days, and within ninety after the date of his rejection, by petition in writing, set forth the causes of his grievance and demand another examination. Such petition must be addressed to and served upon the Inspector, and shall be duly verified by the rejected applicant, and accompanied by the required fee for a second examination. Within two days after receiving such petition and fee, it is the duty of the Inspector to notify the applicant in writing that on a day certain, which shall not be less than five nor more than forty days after the date of the service of the petition upon such Inspector, he will be ready to grant him another examination. At least two days before the day set for examination the applicant must designate in writing to such Inspector the name of an engineer holding a certificate of equal grade with the one applied for and such engineer may present himself upon the day and at the hour fixed for the re-examination.

Sec. 355. Upon the same day, or any day prior to the date set for such examination the inspector and selected engineer must in writing agree upon and designate and notify a third disinterested engineer holding a license equal in grade to the license applied for by the rejected applicant, to sit with them. On the day and hour set for such re-examination all three of such board, that is, the Inspector and the engineer selected by the applicant and the engineer agreed upon by them, must proceed to carefully re-examine such applicant and fully and fairly test his qualifications and capabilities to receive a license such as he has applied for. After such examination is completed, if a majority of such board decide that such applicant is entitled to the license he has applied for, or any license of any inferior grade, the Inspector must without delay issue a certificate accordingly, but if a majority of such board reject the applicant, it is a final rejection, and he must not be granted another examination for the space of ninety days after such last rejection, when he may again apply to the Inspector or Assistant Inspector as provided by Section 353, of this Article, and no person must be granted more than one re-examination before a board under the provisions of this Article. One-half of the fee which may have accompanied any rejected applicant's petition for re-examination must be awarded by the Inspector to each of the engineers who sit on any such examing board, and in case the applicant is granted a license the fee paid when he was first rejected is the fee for the issuing of such license granted by any board. In case any engineer selected or agreed upon as by this section is provided, fails or neglects to appear or serve, another may be selected in his place in the manner herein provided.

Sec. 356. This article does not apply to railroad locomotives in Montana, nor to traction engines, engines and boilers mounted on wheels, boilers used for heating purposes in private residences, nor to other boilers having a capacity of five horse power or less, nor are locomotive engineers or persons operating any of the engines or boilers herein exempted from the operation of this Article, required to procure licenses from the State Inspector or Assistant Inspector. The fees which may be demanded and received for the inspection of traction engines and furnace and boiler and other steam boilers in cities shall not exceed the sum of five dollars for each annual inspection. The penalties in this Article provided for shall not apply in any case prior to the time the Inspector or Assistant Inspector has notified the persons affected that they are ready to make the inspection. All certificates of inspection must be renewed yearly; the fee for the inspection of boilers to be the same each year.

Sec. 357. All certificates of licenses to engineers of all classes shall be renewed yearly. The fee for renewal is one dollar in all cases. All moneys collected by virtue of this

Article must be paid into the State treasury at least as often as once in each month. The Inspector of Boilers must make an annual report to the Governor on the first Monday of November, setting forth the moneys collected by him and the Assistant Inspector from any and all sources, and the disbursements and the number of boilers inspected by them, and the number and grades of licenses issued by them and to whom, and the general results of the experiences of his office; and such recommendations as to him may seem proper and fit. Said report must also refer to and account for the causes of any boiler explosions which may have occurred in the State during the year, and the loss of life or property resulting therefrom.

Sec. 358. It is unlawful for any person in the State to operate a stationery boiler or steam engine, or any boiler or steam engine other than railroad locomotives or other engines and boilers exempted in Section 356, of this Article, without a license granted under the provisions of this Article. The owner, renter, or user of the steam engine or boiler is equally liable for violations of this section. But in case of accident, sickness, refusal to work, or any unforeseen prevention of the licensed engineer employed by any owner, renter or user of a steam engine or boiler, operated in remote districts, which would retard the work to be performed, the owner, renter or user may, for the space of four weeks, employ any person not having a license, whom he may consider competent, to run the engine or boiler. The person so employing the unlicensed engineer must immediately notify the Inspector or Assistant Inspector.

Sec. 359. All violations of the provisions of this Article are provided for in the Penal Code, Sections 383 to 385 and 401.

ARTICLE XVI.

INSPECTOR OF MINES.

Section 370. Appointment.
" *371. Salary and duties and Deputy Inspector.*
" *372. Examination of mines.*
" *373. Complaints and duties of Inspector. When made.*
" *374. Same. Notice to be given and examination made.*
" *375. Annual inspection.*
" *376. Accidents.*
" *377. Bond.*
" *378. Report.*
" *379. Not to apply to certain mines.*
" *380. Penalties.*

Sec. 370. The Governor, by and with the advice and consent of the Senate, must appoint an Inspector of Mines, who shall be theoretically and practically acquainted with mines and mining in all its branches, and his appointment must be for four years, unless sooner removed by the Governor. No person must hold the office of Inspector of Mines while an employe or officer of any mining company or corporation.

Sec. 371. The Inspector of Mines must devote his entire time to the duties of his office, and his annual salary is twenty-five hundred dollars. The Governor, with the advice and consent of the Senate, must appoint a Deputy Inspector of mines, who serves for four years, subject to removal by the Governor. The deputy inspector must act at any time when an emergency arises, such as in case of accidents in mines, or in the absence or disability of the Inspector; and receives as compensation for his services, while actually engaged in the performance of duty, the sum of six dollars per diem; but the total compensation of such deputy must not exceed six hundred per annum. The qualifications of the Deputy Inspector are the same as those of the Inspector. Any per diem due to the deputy must be paid upon vouchers approved by the Inspector and allowed by the Board of Examiners.

Sec. 372. It is the duty of the Inspector of Mines to visit, enter and examine any mine or piece of mining ground for the purpose of ascertaining the condition of the same in regard to its safety, ventilation and means of egress, and for this purpose he or the Deputy Inspector must have access at any and all times to any mine stopes, levels, winzes, tunnels, drifts, cross cuts, shafts, works and machinery for the purpose of such inspection, but the working of such mine must not be obstructed or impeded during such examination. The inspection must not be at the expense of the owner, lessor, lessee or agent of the mine being examined, but they must render such assistance as may be necessary to enable the Inspector to make the examination.

Sec. 373. Whenever the Inspector of Mines receives a complaint in writing, signed and verified by the oath of three or more persons setting forth that the mine in which they are working is dangerous in any respect, he or the Deputy Inspector must in person visit and examine such mine. Every complaint must specifically set forth the nature of the danger existing at the mine, and describe with as much certainty as possible, how such mine is rendered dangerous, and must set forth the time the cause of such danger was first observed, and set forth whether or not any notice of such defect or danger has been given by the complainants, or anyone else to their knowledge, to the superintendent of such mine, and if no such complaint has been made to such superintendent, the reason why it has not been made.

Sec. 374. After such complaint shall have been received by the Inspector of Mines, he must serve a copy thereof, but without the names of the complainants, upon the superintendent, or manager, or owner of such mine, at any time before he visits the same, and as soon as possible visit such mine; and if from such examination he ascertains that the mine is, from any cause in a dangerous condition, he must at once notify the owner, lessor, lessee, or agent thereof, such notice to be inwriting, and to be served by copy on such owner, lessor, lessee, or agent, in the same manner as provided by law for the serving of legal process, and the notice must state fully and in detail, in what particular manner such mine is dangerous or insecure, and require all necessary changes to be made without delay, for the purpose of making such mine safe for the laborers employed therein; and in case of any criminal or civil procedure at law against the party or parties so notified, on account of loss of life or bodily injury sustained by any employe subsequent to such notice, and in consequence of a neglect to obey the Inspector's requirement, a certified copy of the notice served by the Inspector is *prima facie* evidence of the gross negligence of the party or parties so complained of.

Sec. 375. It is the duty of the Inspector of Mines, at least once in each year, either in person or by a deputy inspector, to visit each mining county in the State, and examine as many of the mines in the different counties as practicable, and make such recommendations as in his judgment are necessary to insure the safety of the workmen employed therein; and whenever, from his examination, he finds any mine to be in an unsafe condition, he shall at once serve a notice upon the owner, lesser, lessee, or agent thereof, as provided in the next preceding section.

Sec. 376. Whenever a serious or fatal accident occurs in any mine it is the duty of the person in charge thereof to immediately notify the Inspector of Mines, or the Deputy Inspector, and upon receiving such notice the Inspector in person, or Deputy Inspector, must at once repair to the place of accident, and investigate fully the cause of such accident, and whenever possible to do so the Inspector, or Deputy Inspector, shall be present at the coroner's inquest held over the remains of the person or persons killed by such accident, and testify as to the cause thereof, and state whether in his opinion the accident was due to the negligence or mismanagement of the owner or person in charge. If the Inspector or Deputy Inspector cannot be immediately present in case of a fatal or serious accident occurring, it is the duty of the owner, or person in charge of the mine, to have written statements by those witnessing the same, and duly sworn to. In case of no person being present at the time of the accident, then the verified statement of those first present after the accident, must be taken, and such statement must be given to the Inspector or the Deputy Inspector.

Sec. 377. The Inspector of Mines must execute an official bond in the sum of five thousand dollars, and the Deputy Inspector must execute an official bond in the sum of twenty-five hundred dollars.

Sec. 378. The Inspector of Mines must make an annual report to the Governor on the first Monday of November, and in the report must state all the accidents that have occurred in the mines of the State which have occasioned serious injury or resulted fatally, together with the nature and cause of such accidents. Such report must also contain statistical and other information which may tend to promote the development of the mineral resources of the State, and must set forth the result of the Inspector's labors.

Sec. 379. The provisions of this Article do not apply to mines in which less than five men are employed.

Sec. 380. All violations of the provisions of this Article are provided for in the Penal Code, Section 449.

ARTICLE XVII.

MEDICAL EXAMINERS.

Section 390. Appointments.
" *391. Repeal of former act. When to take effect.*
" *392. Organization of Board.*
" *393. Physician not to practice without certificate.*
" *394. Examination for certificate.*
" *395. Board may refuse certificate.*
" *396. Hearing before refusal.*
" *397. Board may revoke a certificate.*
" *398. Entitled to practice pending appeal.*
" *399. Appeals.*
" *400. Certificate to be recorded.*
" *401. Certificate not necessary. Midwives.*
" *402. Penalties.*
" *403. Fees.*
" *404. Expenses.*
" *405. Report.*

Sec. 390. The Governor, in the month of February, 1893, by and with the consent of the Senate, must appoint six learned, skilled and capable physicians, who shall have been residents of the State not less than two years preceding their appointment, and not more than two of whom shall reside in the same county at the time of their appointment, to be Medical Examiners, not more than three of whom must belong to the same school of medicine. When the first appointments under this section are made two Medical Examiners hold office for two years, two for four years and two for six years, from the first day of March, 1893. In the month of February, in the year 1895, and in the month of February in each second year thereafter, two Medical Examiners must be appointed to hold office for six years, from the first day of March in the year in which they are appointed.

Sec. 391. The Act entitled:

"An Act to regulate the practice of medicine in the Territory of Montana, and to provide for the examination and the issuing of certificates to persons desirous of practicing the same, and for the punishment of persons violating the provisions of this Act," approved February 28th, 1889, is repealed, but such repeal shall not take effect until the last day of February, 1893, at which time such repeal takes effect, and the offices of the Medical Examiners appointed under the provisions of said Act, must cease.

Sec. 392. The Board of Medical Examiners must, on the first Tuesday of April of each year, elect from among their number a president, secretary and treasurer, and must have a seal. Four members of said board shall constitute a quorum. The president and secretary have the power to administer oaths in examination of applicants for certificates, and witnesses called before the board in the transaction of business under the provisions of this Article. The Board of Examiners must hold meetings for examinations at the seat of government on the first Tuesdays of April and October of each year, and at such other times and at the same and other places as the board may determine. The Board must keep a record of all proceedings thereof, and also a register of all applicants for a certificate, with the age of the applicant, time spent in the study of medicine, and the name and location of all institutions granting to such applicant degrees or certificates of lectures attended in medicine or surgery. The register must also show whether such applicant was rejected, or has received a certificate under this Article; such register is *prima facie* evidence of all the matters therein kept.

Sec. 393. Every person wishing to practice medicine or surgery in any of their departments within this State, must do so only upon obtaining a certificate as required by this Article. If a graduate in medicine, such person must present his or her diploma to the Board of Medical Examiners, for verification as to its genuineness. If the diploma is found genuine and is issued by a school legally organized and in good standing, whose teachers are graduates of a school legally organized, which fact the board must determine, upon a proper showing and sufficient evidence, and if the person presenting and claiming such diploma be the person to whom the same was originally granted, then the board must issue its certificate to that effect, and such certificate is conclusive as to the right of the lawful holder thereof to practice medicine and surgery within this State. Any person coming to the State may present his or her diploma to any member of the Board of Medical Examiners, and he may issue a certificate, which is good until the next regular meeting of the board. If not a graduate, the person wishing to practice medicine or surgery, unless he has been in continuous practice in the Territory or State of Montana for a period of not less than ten years, of which fact he or she must present to the board by affidavits, must appear before the board and submit to such examination as may be required, and if the affidavits prove the fact of ten years continuous practice in the State or Territory, the board must issue to such person its certificate to practice medicine and surgery in the State.

Sec. 394. Every person not mentioned in the next preceding section wishing to practice medicine or surgery in any of its branches in the State must apply to the board for a certificate so to do, and such applicant, at the time and place designated by the board, or at a regular meeting thereof, must submit to an examination in the following branches, to-wit: Anatomy, physiology, chemistry, histology, materia medica, therapeutics, preventive medicines, practice of medicine, surgery, obstetrics, diseases of women and children, diseases of the nervous system, diseases of the eye and ear, medical jurisprudence, and such other branches as the board may deem advisable and presents evidence of having attended three courses of lectures of at least four months each. Such examination must be scientific and practical, and of sufficient thoroughness to test the candidate's fitness to practice medicine and surgery. When desired, said examination may be conducted in the presence of the dean of any medical school, or the president of any medical society of this State. After examination the board must, if the candidate is found qualified, grant a certificate to such candidate, to practice medicine and surgery in the State, which certificate can only be granted by the consent of not less than four members of the board, and must be signed by the president and secretary of the board and attested by the seal thereof.

Sec. 395. The board may refuse to grant a certificate for unprofessional, dishonorable, or immoral conduct. Before a certificate can be refused for such cause the board must serve in writing upon the applicant, a copy of any charge or charges against him, and appoint a day for a hearing, at which the applicant or any witnesses in his behalf may appear and give testimony on refutation of such charges. In case the board, after such hearing, refuse a certificate to the applicant, the decision specifically stating the grounds upon which such refusal is made, must be reduced to writing and a copy thereof delivered to the applicant on demand of the applicant. Upon a like hearing the board may refuse a certificate to any one who may publicly profess to cure, or treat disease, injury or deformity in such a manner as to deceive the public.

Sec. 396. The hearing provided for in the next preceding section must take place within twenty days after the service of the copy of the charges upon the applicant, unless delayed by or further time is granted to the applicant, and the decision of the board must not be later than ten days after the day of the hearing. If the decision is not rendered within said period of ten days the applicant is not subject to any penalties for practicing without a certificate during the time that elapses before the decision is made.

Sec. 397. The board, with the concurrence of four members thereof, may revoke a certificate for unprofessional, dishonorable, or immoral conduct. Before such revocation can take place a written complaint specifically stating the charges against the person whose certificate is sought to be revoked, must be delivered to the board, and a copy thereof be served upon such person twenty days before the time fixed by the board for the hearing of such charges. The board must fix the time and place for the hearing, at which the person charged may appear and produce testimony in refutation of such charges. If after such hearing the board revoke the certificate of such person, the grounds upon which such revocation is made must be specifically stated by the board in writing, and a copy thereof delivered, on demand, to the person whose certificate is revoked,

Sec. 398. In case of an appeal from an order revoking a certificate the appellant is entitled to practice during the pendency of the appeal.

Sec. 399. In case of the refusal or revocation, for any reason, of a certificate to practice medicine and surgery, the person aggrieved thereby may appeal from the decision of the board to the District Court of the county in which he resided at the time of such refusal or revocation. The appeal is taken by the appellant serving notice of appeal upon any officer of the board, within thirty days after receiving from the board a copy of the decision, and filing within the same time with the clerk of the proper District Court a verified copy of the decision appealed from, together with a verified copy of any charges furnished by the board to the appellant. The appeal is conducted to a determination in all respects as an appeal from a decision of a Board of County Commissioners disallowing a claim. The District Court must affirm or reverse the decision of the Board of Medical Examiners. In case of reversal, a certified copy of the judgment is equivalent to a certificate permitting the appellant to practice medicine and surgery. An appeal may be taken from the judgment of the District Court by either party to the Supreme Court within sixty days from the entry thereof, in like manner as in civil cases.

Sec. 400. Every person obtaining a certificate from the board must within sixty days after the date thereof, have the same recorded in the office of the county clerk in the county wherein he resides; if he removes from one county to another to practice medicine or surgery, his certificate must immediately be recorded in the county to which he removes. The county clerk must indorse upon the certificate the date of record, and he is entitled to charge and receive his usual fees for such services, the fee to be paid by the applicant. Until the certificate be recorded as provided by this section, the physician practicing under it is subject to the penalties prescribed in the Penal Code, for practicing without a certificate.

Sec. 401. This article does not apply to mid-wives of skill and experience, attending cases of confinement, nor to commissioned surgeons of the United States army or navy in the discharge of their official duties, nor to physicians or surgeons in actual consultation from other states and territories, nor to students practicing medicine under the direct supervision of a preceptor, nor to gratuitous services in cases of emergency.

Sec 402. Any person practicing medicine or surgery in this State, without first having obtained a certificate to practice, herein provided for, or contrary to the provisions of this article, is punishable as provided in ——— ——— of the Penal Code. Any person is regarded as practicing within the meaning of this Article, who, for a fee, prescribes medicine, operates in surgery, or attends in obstetrics. This Article does not apply to dentists practicing dentistry.

Sec. 403. Candidates for examination must pay in advance to the secretary of the board a fee of fifteen dollars, which fee is to defray the entire expenses of the board. Any one failing to pass the required examination is entitled to an examination within six months without fee.

Sec. 404. Each member of the board is hereby allowed the sum of five dollars per day, and mileage at ten cents per mile for the distance actually traveled, while in the active and necessary discharge of his duties. And such expense must be paid out of the fees paid into the treasury of the board.

Sec. 405. The board must report annually on the first Monday of November to the Governor, which report must show all the transactions of the board, giving the number of applications received, and from whom received, the number of certificates granted and rejected, and the names of those receiving certificates and of those rejected, giving the reasons therefor, the amount of money received, the expenses, the fees and mileage paid and by whom received, and the amount of money in the treasury. If upon the filing of the report there is a surplus in the treasury, such surplus must be paid into the State treasury.

ARTICLE XVIII.

BOARD OF EXAMINERS.

Section 410. Board, how composed.
" *411. Meetings.*
" *412. Records.*

Section 413. *Rules and Regulations.*
" 414. *Witnesses.*
" 415. *Depositions.*
" 416. *Claims for which appropriations have been made.*
" 417. *Approval and drawing.*
" 418. *If not approved.*
" 419. *Claims provided for, but for which there is no appropriation.*
" 420. *Same as to unsettled claims.*
" 421. *Time for meeting for action on claims referred to.*
" 422. *Proof and examination of such claims.*
" 423. *Report on such claims.*
" 424. *Disqualifications.*
" 425. *Treasurer to act in place of disqualified members.*
" 426. *Restrictions on power of board.*
" 427. *Appeals.*
" 428. *Auditor not to draw warrant for claims not audited.*
" 429. *Board may prevent payment of Auditor's warrants.*
" 430. *Must examine books of Auditor and Treasurer.*
" 431. *Must make statement.*
" 432. *Auditor and Treasurer must permit examination, etc.*
" 433. *Board of Supplies.*
" 434. *Duty of such board.*
" 435. *Contracts must be advertised.*
" 436. *Contents of advertisement.*
" 437. *Awarding the contract.*
" 438. *The bond.*
" 439. *Supplies may be classified.*
" 440. *Must be approved by Governor and State Treasurer.*
" 441. *For supplies for the Legislative Assembly.*
" 442. *Hire rooms for.*
" 443. *No officer to be interested in contracts.*
" 444. *Board may employ clerical help for State officers.*

Sec. 410. The Governor, Secretary of State and Attorney General constitute a Board of Examiners, with power to examine all claims against the State, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law. No claim against the State, except salaries and compensation of officers fixed by law, must be passed upon by the Legislative Assembly without first having been considered and acted upon by said board.

Sec. 411. The meetings of the said board are held at the seat of government on the third Monday in each month and such other times as the president may call it together; and the Governor is the president and the Secretary of State the secretary of said board, and, in the absence of either, an officer *pro tempore* may be elected from their number.

Sec. 412. The board must keep a record of all its proceedings, and any member may cause his dissent to the action of the majority upon any matter to be entered upon such record. And all claims must be entered upon the minutes of the board before the same are acted upon.

Sec. 413. The board may, in writing, establish rules and regulations, not inconsistent with law, for its government.

Sec. 414. The president may issue subpoenas and compel the attendance of witnesses before the board, or any member thereof, in the same manner that any court in this State may; and whenever the testimony of any witness against a demand pending before it, is material, the president must cause the attendance of the witness before the board, or a member thereof, to testify concerning the demand, and the board may make a reasonable allowance therefor, not exceeding the fees of witnesses in civil cases, which must be paid out of the appropriation for the contingent expenses of the board, but in no instance can an allowance be made in favor of a witness who appeared in behalf of the claimant.

Sec. 415. Each member of the board may take depositions to be used before it.

Sec. 416. Any person having a claim against the State, for which an appropriation has been made, may present the same to the board in the form of an account or petition, and the secretary of the board must date, number, and file such claim, and the board must allow or reject the same in the order of its presentation. The board may for cause postpone action pon a claim for not exceeding one month.

Sec. 417. If the board approve such claim they must indorse thereon over their signatures, "Approved for the sum of———dollars," and transmit the same to the office of the State Auditor; and the Auditor must draw his warrant for the amount so approved, in favor of the claimant, or his assigns, in the order in which the same was approved.

Sec. 418. If the board disapprove such claim, it must cause the same to be filed with the records of the board, with a statement showing such disapproval, and the reasons therefor.

Sec. 419. If no appropriation has been made for the payment of any claim presented to the board the settlement of which is provided for by law, or if an appropriation made has been exhausted, the board must audit the same, and if they approve it, must transmit it to the Legislative Assembly with a statement of their approval.

Sec. 420. Any person having a claim against the State, the settlement of which is not otherwise provided for by law, must present the same to the Board of Examiners, at least two months before the meeting of the Legislative Assembly, accompanied by a statement showing the facts constituting the claim, verified in the same manner as complaints in civil actions.

Sec. 421. On the first Monday of November preceding the meeting of each Legislative Assembly, the board must hold a session for the purpose of examining the class of claims referred to in the preceding section, and may adjourn from time to time until their work is completed. They must cause a list and brief abstract of all claims filed with them up to that date to be made and published in some newspaper at the seat of government for such time as they may prescribe. The list must be accompanied by a general notice of the order in which and of the time when the board will proceed to examine the clams.

Sec. 422. The board must, at the time designated, proceed to examine and adjust all such claims. They may hear evidence in support of or against them, and report to the Legislative Assembly such facts and recommendations concerning them as they may think proper. In making their recommendations they may state and use any official or personal knowledge which any member of the board may have, touching such claims.

Sec. 423. The board must make up their report and recommendations at least thirty days before the meeting of the the Legislative Assembly. A brief abstract of their report, showing the claims rejected, and those, or the amounts thereof, allowed, must be published in a newspaper published at the seat of government, for such time as the board may prescribe, before the meeting of the Legislative Assembly.

Sec. 424 No member of the board must act upon any claim in which he is interested, or for expenditures incurred in his office, nor must he be present when the decision thereon is made.

Sec. 426. The board must not entertain for the second time a demand against the State once rejected by it, or the Legislative Assembly, unless such facts are presented to the board as in suits, between individuals, would furnish sufficient ground for granting a new trial.

Sec. 427. Any person interested, who is aggrieved by the disapproval of a claim by the board, may appeal from the decision to the Legislative Assembly of the State, by filing with the board a notice thereof, and upon the receipt of such notice the board must transmit the demand and all the papers accompanying the same, with a statement of the evidence taken before it, to the Legislative Assembly.

Sec. 428. The State Auditor must not draw his warrant for any claim unless it has been approved by the board, except for salaries or compensation of officers fixed by law.

Sec. 429. Whenever the board has reason to believe that the State Auditor has drawn, or is about to draw his warrant without authority of law, or for a larger amount than the State actually owes, the board must notify the State Treasurer not to pay the warrant so drawn or to be drawn; and thereupon the Treasurer is prohibited from paying the warrant, whether already drawn or not, until he is otherwise directed by the Legislative Assembly or the board.

Sec. 430. As often as it may deem proper the board must examine the books of the State Auditor and State Treasurer, the accounts and vouchers in their offices, and count the money in the treasury, and for that purpose they may demand and the State Auditor and State Treasurer must furnish without delay, all information touching the books, papers, vouchers, or matters pertaining to their offices.

Sec. 431. The board must, at least, once in each month, make and file in the office of the Secretary of State, and publish in some newspaper at the seat of government, a statement showing the amount of money in the treasury.

Sec. 432. The State Auditor and State Treasurer must permit the Board of Examiners to examine the books and papers in their respective offices, and the Treasurer must permit the money in the treasury, without delay on any pretense whatever, to be counted whenever the board wishes to make an examination or count.

Sec. 433. The Board of Examiners is also a board of supplies and furnishing board.

Sec. 434. It is the duty of such board:

1. To contract for the furnishing of all stationery, printing, binding, paper, fuel, lights, and other necessary supplies, to be used by the Legislative Assembly and all other departments of the government, and the printing, binding and distributing of the laws, codes, journals, department reports, reports of the decisions of the Supreme Court, and all other printing and binding, and repairing of any books used by any State officer or department.

2. To hire all offices for the State officers, and to furnish the same; to keep the furniture in repair, and to hire and furnish halls and rooms for the use of the Legislative Assembly, and to provide furniture therefor, and keep the same in repair.

3. To cause to be deposited in the office of the Secretary of State all stationery, books and other articles and supplies furnished and on hand, and to issue to any officer a requisition on the Secretary of State for any books, stationery, or other supplies needed by such officer.

4. At the end of each fiscal year, and at such other times as the board thinks proper, to cause an inventory to be taken of all articles and supplies on hand and contracted for, and to make an examination of all accounts and vouchers for such supplies.

5. To establish rules for the government of the board, in relation to all contracts not inconsistent with law.

Sec. 435. Before any contract is let the board must advertise for twenty days in two daily newspapers printed in the State, one of which must be published at the seat of government, for sealed proposals to furnish any and all the supplies mentioned in the next preceding section.

Sec. 436. The board must specify in the advertisement the amount and kind of each article required. A sample and minute description of each article must accompany and be deposited with each proposal.

Sec. 437. The proposals received must be directed to the board, opened and compared by it at its office at twelve o'clock, noon, of the day specified in the advertisement, and the board must award the contract for furnishing such supplies, or any of them, to the lowest responsible bidder at such time.

Sec. 438. Each bid must be accompanied by a bond with two or more sureties in a sum not less than twice the amount of the value of the articles to be supplied, payable to the State, conditioned that if the bidder receives the contract he will deliver the supplies for which he has contracted, under such rules and regulations as the board may prescribe, and for the faithful performance of the contract.

Sec. 439. The board may in the advertisement classify the supplies and articles to be furnished, and may receive bids, and award contracts for such separate class of supplies, or such separate articles, as it considers the lowest and best bid. The board may require any class of supplies or separate articles thereof to be delivered in installments. Any and all bids may be rejected, and the board may advertise again.

Sec. 440. All contracts made by the board must be approved by the Governor and the State Treasurer.

Sec. 441. The board must, at least one month before the meeting of the Legislative Assembly advertise, as provided in the preceding sections, for the repairing and furnishing the halls and rooms, and stationery, fuel, light and such other supplies as are necessary for the members of the Legislative Assembly, at the ensuing session, and at the commencement of each session thereof the board must report to the Legislative Assembly an account of the supplies, expenditures for the same, and the stock on hand.

Sec. 442. The board may hire the necessary rooms for the State officers, and halls and rooms for the Legislative Assembly and its committees, without advertising as provided in this Article, if the board so decide.

Sec. 443. No member or officer of any department of the government must be in any way interested in any contract made under the provisions of this Article.

Sec. 444. The Board of Examiners may at any time when necessary, employ clerical help for any State officer or board, and no clerks must be employed by such officers or board without the authority of the Board of Examiners, and no such clerks must be employed by the Board of Examiners except when all the duties of the office cannot be performed by the officer himself.

ARTICLE XIX.

POWERS AND DUTIES OF OTHER EXECUTIVE OFFICERS.

Section 448. State boards.

Sec. 448.—

1. The powers and duties of the State Board of Equalization are prescribed in Title X., Part III., of this Code.
2. Those of the State Board of Education in Chapter III., Title III., Part III., of this Code.
3. Those of the Trustees of the State Library and State Librarian in Chapter III., Title V., Part III., of this Code.
4. Those of the Board of State Prison Commissioners in Part III., of the Penal Code.
5. Those of the Board of Commissioners of the Insane, Deaf, Dumb and Blind, and other officers in Chapters I. and II., Title V., Part III., of this Code.
6. Those of the Commissioner of Agriculture, Labor and Industry, are to be prescribed in statutes when enacted.
7. Those of the Board of State Land Commissioners in Title VIII., Part III., of this Code.

CHAPTER IV.

JUDICIAL OFFICERS.

Section 452. Number, designation and mode of election.

Section 452. The number, designation and mode of election of judicial officers are fixed in Title I., Part I., of the Code of Civil Procedure.

CHAPTER V.

SALARIES OF JUSTICES OF THE SUPREME COURT AND DISTRICT JUDGES, AND OFFICERS CONNECTED WITH THE SUPREME COURT.

Section 453. Salaries of Justices of Supreme Court.
" *454. Salaries of District Judges.*
" *455. Marshal.*
" *456. Duties.*
" *457. Compensation.*
" *458. Accounts.*

Sec. 453. The annual salary of each Justice of the Supreme Court is four thousand dollars.

Sec. 454. The annual salary of each District Judge is three thousand five hundred dollars.

Sec. 455. The Supreme Court must appoint a marshal of the Supreme Court, who holds office at the pleasure of the court.

Sec. 456. It is the duty of the marshal to attend upon the Supreme Court and the Justices thereof at each term of court. He shall be the executive officer of the court, and shall act as crier thereof. He must serve within the State all writs and process issuing from the Supreme Court, and shall have all the powers and exercise all the duties pertaining to sheriffs as to the District Courts, so far as the same are applicable.

Sec. 457. The marshal is entitled to compensation as follows: For each day's actual attendance upon the court and justices as hereinbefore provided, he receives the sum of four dollars; but in reckoning his per diem allowance as aforesaid, he may include all days from the first day to the last day of the term, inclusive, including days when the court is in recess during the term and the marshal is in attendance upon the justices as aforesaid, but Sundays and other non-judicial days must not be included. And when serving process of court beyond the place where the court is held, the marshal is entitled to receive the same mileage as provided by law for sheriffs in doing similar services, to be taxed as costs in other cases.

Sec. 458. All accounts of the marshal must be filed in the Supreme Court in a bill of items under oath certified by the Chief Justice, and when properly chargeable against the State and approved by the State Board of Examiners, must be paid out of the State treasury upon the warrant of the State Auditor.

CHAPTER VI.

MINISTERIAL AND OTHER OFFICERS CONNECTED WITH THE COURTS.

Article I. Clerk of the Supreme Court.
" *II. Reporter of the Supreme Court.*
" *III. Notaries public.*
" *IV. Commissioners of deeds.*
" *V. Other officers.*

ARTICLE I.

CLERK OF THE SUPREME COURT.

Section 460. Election and term of office.
" *461. General duties.*
" *462. Fees.*

Section 463. Duties.
" *464. Settlements, when and how made.*
" *465. Salary of clerk.*
" *466. Official bond.*

Sec. 460. There must be a clerk of the Supreme Court, who must be elected by the electors at large of the State and hold his office for the term of six years from the first Monday of January next succeeding his election, except that the clerk first elected under the Constitution holds his office only until the general election in the year one thousand eight hundred and ninety-two, and until his successor is elected and qualified.

Sec. 461. The clerk of the Supreme Court must perform such duties as are prescribed by law and the rules and practice of the court.

Sec. 462. He must collect in advance the following fees: For filing the transcript on appeal, in each civil case appealed to the Supreme Court, ten dollars, payable by the appellant and five dollars, payable by respondent, at the time of his appearance, in full for all services rendered in each case, up to the remittitur to the court below; for filing petition for any writ, ten dollars, in full for all services rendered in each cause; for certificate of admission as attorney and counselor, five dollars; for making transcripts, copies of papers or record, fifteen cents per folio; for comparing any document requiring a certificate, five cents per folio; for each certificate under seal, one dollar.

All fees collected by him must be paid into the State treasury, eighty per cent. thereof to the credit of the general fund, and twenty per cent. thereof to the credit of the State library fund.

Sec. 463. It is the duty of the clerk to keep the seal of the Supreme Court, its records and files, and the roll of attorneys and counselors at law; to adjourn the court from day to day at the beginning of any term in the absence of any judge and until the arrival of a majority of their number; to file all papers or transcripts required to be filed by law; to issue writs and certificates and approve bonds or undertakings when so required; to make out all transcripts to the Supreme Court of the United States; to make copies of papers or records when demanded by law, or the rules of the court, and to perform such other duties as may be required of him by the Supreme Court.

Sec. 464. He is responsible and must account for, and in his settlement with the State Auditor must be charged with; the full amount of all fees collected or chargeable, and accruing in causes brought into the court for services rendered therein up to the time of each settlement, which settlement must take place quarterly, and must immediately thereafter pay the amount found due into the treasury. He must also at the end of each quarter, render to the State Auditor, in such form as that officer prescribes, an account in detal under oath, of all fees chargeable and accruing in causes brought into court and not included in his previous accounts rendered. His salary must not be allowed or paid until all fees so accruing, and for which he is chargeable, have been accounted for and paid over.

Sec. 465. The annual salary of the clerk of the Supreme Court, including his services as reporter of the decisions and opinions of the Supreme Court, and for all services now required, or which may hereafter be devolved upon him by law, is three thousand dollars.

Sec. 466. The clerk of the Supreme Court must execute an official bond in the sum of five thousand dollars.

ARTICLE II.

REPORTER OF THE SUPREME COURT.

Section 470. Who to be reporter.
" 471. General duties.
" 472. Reports what to include.
" 473. Justices must supervise publication.
" 474. Proof sheets.
" 475. Style of reports.
" 476. Must be published by contract.
" 477. Contract what to require.
" 478. Secretary of State to purchase volumes for use of State.
" 479. Copyright.

Sec. 470. The clerk of the Supreme Court is ex-officio reporter of the decisions and opinions of the Supreme Court.

Sec. 471. The reporter of the decisions of the Supreme Court must prepare a report of such cases decided, as he may by the court be directed to report, with a suitable index for each volume at the end thereof.

Sec. 472. Each report must be made in manner and form as the court may direct.

Sec. 473. The reports must be published under the supervision of the court, and to that end each of the justices must be furnished by the reporter with the proof sheets of each volume as soon as the proof sheets thereof are received by him.

Sec. 474. Within thirty days after such proof sheets are furnished, the justices may return them to the reporter, with corrections or alterations, and he must make the corrections or alterations accordingly.

Sec. 475. The reports must be published in well bound volumes, and must be printed on good book paper, in small pica leaded, and brevier, equal in quality of paper and binding, and in every other respect to Volume II. of Montana Reports.

Sec. 476. The reporter must have no pecuniary interest in the volumes of Reports, but they must be published under the supervision of the court and reporter, by contract, as provided by law.

Sec. 477. The contract must require the publisher to print and publish each volume in the style required by Section 475, within sixty days from the time at which the manuscript is delivered by the reporter, to sell two hundred and fifty copies to the State at the price fixed in the contract, a sufficient number of copies to supply all demands for six years from the publication thereof, and to give bonds for the fulfillment of the terms of the contract, in the sum of five thousand dollars.

Sec. 478. On the publication of each volume of Reports, the Secretary of State must purchase for the use of the State, two hundred and fifty copies of said volume, at the price named in the contract, not exceeding four dollars per volume, and after having distributed the same as required by law must deposit the surplus copies in the State library.

Sec. 479. The copyright of the statement of facts, of the head notes, and of all other notes or references prepared by the reporter, must be taken by, and shall be vested in the Secretary of State for the benefit of the people of the State.

ARTICLE III.

NOTARIES PUBLIC.

Section 486. Governor may appoint.
" *487. Restrictions as to residence.*
" *488. Term of office.*
" *489. General duties.*
" *490. Protests, evidence of facts stated.*
" *491. Records of, on death or resignation.*
" *492. Certified copies of, records of a predecessor.*
" *493. Official bond.*
" *494. Certificate of filing bond and oath.*
" *495. Liabilities on official bond.*
" *496. Authentication of official character.*
" *497. Fee of county clerk, etc., for filing.*
" *498. Revocation of commission.*
" *499. Officers not to be appointed notaries public.*

Sec. 486. The Governor may appoint and commission one or more notaries public for each county in the State.

Sec. 487. Every person appointed as notary public must, at the time of his appointment, be an elector of the county for which he is appointed, and must continue to reside in such county. Removal from the county vacates his office, and is equivalent to a resignation.

Sec. 488. The term of office of a notary public is three years from and after the date of his commission.

Sec. 489. It is the duty of a notary public:

1. When requested, to demand acceptance and payment of

foreign, domestic, and inland bills of exchange, or promissory notes, and protest the same for non-acceptance and non-payment, and to exercise such other powers and duties as by the law of nations and according to commercial usages, or by the laws of any other State, government or country, may be performed by notaries.

2. To take the acknowledgement or proof of powers of attorney, mortgages, deeds, grants, transfers, and other instruments of writing executed by any person, and to give a certificate of such proof or acknowledgement, indorsed or attached to the instrument.

3. To take depositions and affidavits, and administer oaths and affirmations, in all matters incident to the duties of the office, or to be used before any court, judge, officer or board in this State.

4. To keep a record of all his official acts.

5. To keep a record of the parties to, date and character of every instrument acknowledged or proved before him.

6. When requested and upon payment of his fees therefor, to make and give a certified copy of any record in his office.

7. To provide and keep an official seal, upon which must be engraved the name of this State and county, the words "Notarial Seal," with the surname of the notary, and at least the initials of his Christian name.

8. To authenticate with his official seal all official acts, except that it is sufficient for any notary, in order to certify on oath or affidavit to be used in this State, in any of the courts, or in any manner whatever, to append his signature to the jurat, and added thereto the words "Notary Public in and for ——— County," (inserting the name of the county,) without the impression of his seal. In all cases when a notary signs his name officially he must add to his signature the words required to be added in the case of a jurat.

Sec. 490. The protest of a notary under his hand and official seal, of a bill of exchange or promissory note, for non-acceptance or non-payment, stating the presentment for acceptance or payment, and the non-acceptance or non-payment thereof, the service of notice on any or all of the parties to such bill of exchange or prommissory note, and specifying the mode of giving such notice, and the reputed place of residence of the party to such bill of exchange or promissory note, and of the party to whom the same was given, and the post office nearest thereto, is *prima facie* evidence of the facts contained therein.

Sec. 491. It is the duty of every notary public, on his resignation or removal from office, and in case of his death, of his legal representative, or at the expiration of his term, to forthwith deposit all the records kept by him, in the office of the county clerk of the county in which he was resident, and on failure to do so, the person so offending is liable to damages to any person injured thereby.

Sec. 492. It is the duty of each clerk aforesaid, to receive and safely keep all such records and papers of the notary in the case above named, and to give attested copies of them under his seal, for which he may demand such fees as by law may be allowed to the notaries, and such copies shall have the same effect as if certified by the notary.

Sec. 493. Each notary must execute an official bond in the sum of one thousand dollars, which bond must be approved by the county clerk of the county for which he was appointed.

Sec. 494. Each notarypublic, upon such approval of his official bond, so soon as he has taken his official oath, must transmit such bond and oath, signed by him with his own proper signature, to the office of the Secretary of State, whereupon the Governor must issue a commission.

Sec. 495. For the official misconduct or neglect of a notary public, he, and the sureties on his official bond, are liable to the parties injured thereby for all the damages sustained.

Sec. 496. Any notary public, under the laws of this State, may file his commission in the office of the county clerk in the county for which he was appointed, and thereafter the county clerk may certify to the official character of such notary public.

Sec. 497. The county clerk may receive for filing the commission of any notary public the sum of fifty cents, and for each certificate of official character, with seal attached, issued, the further sum of fifty cents.

Sec. 498. Upon ten days notice the Governor may revoke the commission of any notary public for any cause he may deem sufficient.

Sec. 499. No state, county or township officer, or the deputy or any clerk of such officer, must be appointed a notary public.

ARTICLE IV.

COMMISSIONERS OF DEEDS.

Section 505. Governor to appoint.
" *506. General duties of.*
" *507. Effect of acts done by commissioners.*
" *508. Oath, when to be filed.*
" *509. Fees.*
" *510. Copy of this Article to be transmitted to appointee.*
" *511. Fee to be paid into State treasury.*

Sec. 505. The Governor may appoint in each State of the United States, or in any foreign State, one or more commissioner of deeds, to hold office for the term of five years from and after the date of their commission, but the Governor may remove from office any commissioner during the term for which he was appointed.

Sec. 506. Every commissioner of deeds has power, within the State for which he is appointed—

1. To administer and certify oaths.
2. To take and certify depositions and affidavits.
3. To take and certify the acknowledgement or proof of powers of attorney, mortgages, transfers, grants, deeds, or other instruments for record.
4. To provide and keep an official seal, upon which must be engraved his name, the words "Commissioner of Deeds for the State of Montana," and the name of the State for which he is commissioned.
5. To authenticate with his official seal all his official acts.

Sec. 507. All oaths administered, depositions and affidavits taken, and all acknowledgements and proofs certified by commissioners of deeds, have the same force and effect, to all intents and purposes, as if done and certified in this State by any officer authorized by law to perform such acts.

Sec. 508. The official oaths of commissioners of deeds, together with the impressions of their official seals, must be filed in the office of the Secretary of State within six months after they are taken.

Sec. 509. The fees of commissioners of deeds are the same as those prescribed for notaries public.

Sec. 510. The Secretary of State must transmit, with the commission to the appointee, a certified copy of this Article, and of the section prescribing the fees of notaries public.

Sec. 511. No commission must issue until the applicant pays into the State treasury the sum of three dollars.

ARTICLE V.

OTHER OFFICERS.

Section 514. Clerks, sheriffs, coroners, and other county officers, etc.
" *515. Attorneys and counselors at law.*

Sec. 514. The mode of election of clerks, sheriffs, coroners, and other county and township officers, is fixed by Part IV., of this Code.

Sec. 515. The admission of attorneys and counselors at law is provided for and their duties fixed in Chapter I., Title V., Part I., of the Code of Civil Procedure.

CHAPTER VII.

GENERAL PROVISIONS RELATING TO DIFFERENT CLASSES OF OFFICERS.

Article I. Disqualifications.
" *II. Restrictions upon the residence of officers.*

Article III. Powers of deputies.
" IV. Appointment and duration of term.
" V. Nominations and commissions.
" VI. Oath of office.
" VII. Prohibitions applicable to certain officers.
" VIII. Salaries, when title is contested.
" IX. Bonds of officers.
" X. Resignations, vacancies, and the mode of supplying them.
" XI. Proceedings to compel delivery of books and papers.
" XII. Miscellaneous provisions.

ARTICLE I.

DISQUALIFICATIONS.

Section 520. Age and citizenship.
" 521. Other disqualifications.
" 522. County officer not to act as deputy.

Sec. 520. No person is capable of holding a civil office in this State, who at the time of his election or appointment is not of the age of twenty-one years and a citizen of this State.

Sec. 521. Provisions respecting disqualifications for particular offices are contained in the Constitution and in the provisions of the Codes concerning the various offices.

Sec. 522. No county officer must be appointed or act as the deputy of another officer of the same county, except in cases where the pay of the officer so appointed amounts to a sum less than seventy-five dollars per month.

ARTICLE II.

RESTRICTIONS UPON THE RESIDENCE OF OFFICERS.

Section 525. Certain officers must reside at the seat of government.
" 526. Absence from the State.
" 527. Restrictions upon judicial officers.
" 528. Restrictions upon county officers.
" 529. Restrictions upon other officers.

Sec. 525. The following officers must reside and keep their offices at the seat of government: The Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Superintendent of Public Instruction, Justices of the Supreme Court and Clerk of the Supreme Court.

Sec. 526. No officer mentioned in the preceding section, and no officer appointed by the Governor and confirmed by the Senate, must absent himself from the State for more than sixty consecutive days, unless upon business of the State or with the consent of the Legislative Assembly.

Sec. 527. Restrictions upon the residence of other judicial officers are contained in the Constitution and the Code of Civil Procedure.

Sec. 528. Restrictions upon the residence of county officers are contained in Part IV., of this Code.

Sec. 529. Restrictions upon the residence of other officers are contained in the Article relating to their respective offices.

ARTICLE III.

POWERS OF DEPUTIES.

Section 530. Powers of deputies.

Sec. 530. In all cases not otherwise provided for, each deputy possesses the powers and may perform the duties attached by law to the office of his principal.

ARTICLE IV.

APPOINTMENT AND DURATION OF TERMS.

Section 532. Appointments, when not otherwise provided for.
" 533. Deputies and subordinate officers.
" 534. Number of deputies.
" 535. Term of office, when not prescribed.
" 536. Holding over until successor is qualified.

Sec. 532. Every officer, the mode of whose appointment is not prescribed by the Constitution or Statutes, must be appointed by the Governor by and with the advice and consent of the Senate.

Sec. 533. All assistants, deputies, and other subordinate officers, whose appointments are not otherwise provided for, must be appointed by the officer or body to whom they are respectively subordinate.

Sec. 534. When the number of such deputies or subordinate officers is not fixed by law, it is limited only by the discretion of the appointing power.

Sec. 535. Every office of which the duration is not fixed by law, is held at the pleasure of the appointing power.

Sec. 536. Every officer must continue to discharge the duties of his office, although his term has expired, until his successor has qualified.

ARTICLE V.

NOMINATIONS AND COMMISSIONS OF OFFICERS.

Section 540. Nominations to Senate must be in writing.
" 541. Resolution of concurrence.

Section 542. Commissions by the Governor.
" *543. Form of commissions.*
" *544. Other commissions.*
" *545. Appointment of deputies, etc., how made.*

Sec. 540. Nominations made by the Governor to the Senate must be in writing, designating the residence of the nominee and the office for which he is nominated.

Sec. 541. Whenever the Senate concurs in a nomination, its secretary must immediately deliver a copy of the resolution of concurrence, certified by the president and secretary, to the Secretary of State, and another copy, certified by the secretary, to the Governor.

Sec. 542. The Governor must commission:

1. All officers elected by the people, whose commissions are not otherwise provided for.

2. All officers of the militia.

3. All officers appointed by the Governor, or by the Governor with consent of the Senate.

4. United States senators.

Sec. 543. The commissions of all officers commissioned by the Governor must be issued in the name of the State, and must be signed by the Governor and attested by the Secretary of State, under the great seal.

Sec. 544. The commissions of all other officers, where no special provision is made by law, must be signed by the presiding officer of the body, or by the person making the appointment.

Sec. 545. The appointment of deputies, clerks, and subordinate officers, when not otherwise provided for, must be made in writing filed in the office of the appointing power or the office of its clerk.

ARTICLE VI.

OATH OF OFFICE.

Section 550. Oath, form of.
" *551. Oath of members of the Legislature.*
" *552. Oath, when taken.*
" *553. Oath, before whom taken.*
" *554. Oath, where filed.*
" *555. Oath of deputies.*

Sec. 550. Members of the Legislative Assembly and all officers, executive, ministerial or judicial, must, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation, to-with: "I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States and the Constitution of the State of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this State, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law. So help me God." And no other oath, declaration, or test must be required as a qualification for any office or trust.

Sec. 551. Members of the Legislative Assembly may take the oath of office at any time during the term for which they were elected.

Sec. 552. Whenever a different time is not prescribed by law, the oath of office must be taken, subscribed and filed within ten days after the officer has notice of his election or appointment, or before the expiration of fifteen days from the commencement of his term of office, when no such notice has been given.

Sec. 553. Except when otherwise provided, the oath may be taken before any officer authorized to administer oaths.

Sec. 554. Every oath of office certified by the officer before whom the same was taken, must be filed within the time required by law, except when otherwise specially provided, as follows:

1. The oath of all officers, whose authority is not limited to any particular county, in the office of the Secretary of State.

2. The oath of all officers, elected or appointed for any county, and of all officers whose duties are local, or whose residence in any particular county, is prescribed by law, and of the clerks of the district courts, in the offices of the clerks of their respective counties.

3. Each judge of a district court must, so soon as he has taken and subscribed his official oath, file a copy thereof, signed with his signature, in the office of the Secretary of State.

Sec. 555. Deputies, clerks and subordinate officers must, within ten days after receiving notice of their appointment, take and file an oath in the manner required of their principals.

ARTICLE VII.

PROHIBITIONS APPLICABLE TO CERTAIN OFFICERS.

Section 558. Certain officers not to be interested in contracts.
" 559. Nor purchasers or vendors at certain sales.
" 560. Contracts in violation, voidable.
" 561. Certain officers prohibited from dealing in scrip, etc.
" 562. Auditing officers, duties of.

Section 563. Treasurer, duties of.
" 564. When settlements must be withheld.

Sec. 558. Members of the Legislative Assembly, State, county, town or township officers, must not be interested in any contract made by them in their official capacity, or by any body or board of which they are members.

Sec. 559. State, county, town, township and city officers must not be purchasers at any sale, nor vendors at any purchase made by them, in their official capacity.

Sec. 560. Every contract made in violation of any of the provisions of the two preceding sections, may be avoided at the instance of any party except the officer interested therein.

Sec. 561. The State officers, the several county, city, town, and township officers of this State, their deputies and clerks, are prohibited from purchasing or selling, or in any manner receiving to their own use or benefit, or to the use or benefit of any person or persons whatever, any State, county, or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the State, or any county, city, town, or township thereof, except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy, clerk, and evidences of the funded indebtedness of such State, county, city, township, town, or corporation.

Sec. 562. Every officer whose duty it is to audit and allow the accounts of other State, county, city, township or town officers must, before allowing such accounts, require each of such officers to make and file with him an affidavit that he has not violated any of the provisions of this Article.

Sec. 563. Officers charged with the disbursement of public moneys must not pay any warrant or other evidence of indebtedness against the State, county, city, town or township, when the same has been purchased, sold, received or transferred contrary to any of the provisions of this Article.

Sec. 564. Every officer charged with the disbursement of public moneys who is informed by affidavit establishing probable cause that any officer whose account is about to be settled, audited or paid by him, has violated any of the provisions of this Article, must suspend such settlement or payment, and cause such officer to be prosecuted for such violation by the county attorney of the county. In case there be judgment for the defendant upon such prosecution the proper officer may proceed to settle, audit or pay such account, as if no such affidavit had been filed.

ARTICLE VIII.

SALARIES OF OFFICERS WHEN TITLE IS CONTESTED.

Section 567. Title contested, salary must not be paid.
" 568. Pendency of suit must be certified by the clerk.

Sec. 567. When the title of the incumbent of any office in this State is contested by proceedings instituted in any court for that purpose, no warrant can thereafter be drawn or paid for any part of his salary until such proceedings have been finally determined.

Sec. 568. As soon as such proceedings are instituted, the clerk of the court, in which they are pending, must certify the facts to the officers whose duty it would otherwise be to draw such warrant or pay such salary.

ARTICLE IX.

BONDS OF OFFICERS.

Section 572. Time for filing bond.
“ *573. Approving, filing, etc., of State officers.*
“ *574. Bond of Secretary of State, where filed.*
“ *575. Bonds of county and township officers.*
“ *576. Record of official bond.*
“ *577. Approval must be indorsed on bond.*
“ *578. Bond not to be filed before approval.*
“ *579. Condition of bond.*
“ *580. Justification of sureties.*
“ *581. Sureties for less than the penal sum.*
“ *582. Custody of official bonds.*
“ *583. Forms of bonds.*
“ *584. Construction of bonds.*
“ *585. Same.*
“ *586. Suit on bonds.*
“ *587. Same.*
“ *588. Defects in form, approval, filing, etc., not to vitiate.*
“ *589. Insufficiency of sureties.*
“ *590. Form of additional bond.*
“ *591. Force of original bond.*
“ *592. Liability of officers and sureties.*
“ *593. Separate judgments on bonds.*
“ *594. Contribution between sureties.*
“ *595. Discharge of sureties.*
“ *596. Persons appointed to fill vacancies, bonds of.*
“ *597. Release of sureties.*
“ *598. Same.*
“ *599. Same.*
“ *600. Office declared vacant for want of official bond.*
“ *601. Supplemental bond.*
“ *602. Same.*
“ *603. Same.*
“ *604. Same.*
“ *605. Effect of discharge of sureties.*
“ *606. Provisions of Article apply to bonds of administrator.*

Section 607. Bonds of receivers, assignees, etc.
" *608. Actions on official bonds, effect of.*
" *609. Same.*
" *610. Bonds of deputies, clerks, etc.*
" *611. Bond of county clerk, where filed.*
" *612. Actions to compel specific performance, etc.*

Sec. 572. Every official bond must be filed in the proper office within the time prescribed for filing the oath, unless otherwise expressly provided by statute.

Sec. 573. Unless otherwise prescribed by statute, the official bonds of State officers must be approved by the Governor, and filed and recorded in the office of the Secretary of State.

Sec. 574. The official bond of the Secretary of State must, after it is recorded, be filed in the office of the State Treasurer.

Sec. 575. Unless otherwise prescribed by statute the official bonds of county and township officers, must be approved by the Judge of the District Court, and filed and recorded in the office of the county clerk.

Sec. 576. Official bonds must be recorded in a book kept for the purpose, and entitled "Record of Official Bonds."

Sec. 577. The approval of every official bond must be indorsed thereon and signed by the officer approving the same.

Sec. 578. No officer with whom any official bond is required to be filed must file such bond until approved.

Sec. 579. The condition of an official bond must be that the principal will well, truly and faithfully perform all official duties then required of him by law, and also all such additional duties as may be imposed on him by any law of the State, and that he will account for and pay over and deliver to the person or officer entitled to receive the same, all moneys or other property that may come into his hands as such officer. Such bond must be signed by the principal and at least two sureties.

The principal and the sureties upon his official bond are also, in all cases, liable for the neglect, default, or misconduct in office of any deputy, clerk or employe, appointed or employed by such principal.

Sec. 580. The officer whose duty it is to approve official bonds required of State, county or township officers must not accept or approve any such bond, unless each of the sureties severally justify before an officer authorized to administer oaths, as follows:

1. On a bond given by a State officer, that such surety is a resident and freeholder or householder within this State; and on a bond given by a county or township officer, that such surety is a residedt and freeholder or householder within such county, or within an adjoining county.

2. That such surety is worth double the amount for which he becomes surety, over and above all his debts and liabilities

in unincumbered property, situated within this State, exclusive of property exempt from execution and forced sale.

3. A member of the Board of County Commissioners must not be accepted as surety upon the official bond of any county or township officer of his county; nor must any county officer become a surety upon the official bond of any other county officer.

Sec. 581. When the penal sum of any bond required to be given amounts to more than one thousand dollars, the sureties may become severally liable for portions of not less than five hundred dollars thereof, making in the aggregate at least two sureties for the whole penal sum. And if any such bond becomes forfeited, an action may be brought thereon against all or any of the obligors, and judgment entered against them, either jointly or severally, as they may be liable. The judgment must not be entered against a surety severally bound for a greater sum than that for which he is specifically liable by the terms of the bond. Each surety is liable to contribute to his co-sureties in proportion to the amount for which he is liable.

Sec. 582. Every officer with whom official bonds are filed must carefully keep and preserve the same, and give certified copies thereof to any person demanding the same, upon being paid the same fees as are allowable by law for certified copies of papers in other cases.

Sec. 583. All official bonds bonds must be in form joint and several, and made payable to the State of Montana in such penalty and with such conditions as required by this Chapter, or the law creating or regulating the duties of the office.

Sec. 584. Every official bond executed by any officer pursuant to law is in force and obligatory upon the principal and sureties therein for any and all breaches of the conditions thereof committed during the time such officer continues to discharge any of the duties of or hold the office, and whether such breaches are committed or suffered by the principal officer, his deputy or clerk.

Sec. 585. Every such bond is in force and obligatory upon the principal and sureties therein for the faithful discharge of all duties which may be required of such officer by any law enacted subsequently to the execution of such bond, and such condition must be expressed therein.

Sec. 586. Every official bond executed by any officer pursuant to law is in force and obligatory upon the principal and sureties therein to and for the State of Montana, and to and for the use and benefit of all persons who may be injured or aggrieved by the wrongful act or default of such officer in his official capacity; and any person so injured or aggrieved may bring suit on such bond in his own name, without an assignment thereof.

Sec. 587. No such bond is void on the first recovery of a judgment thereon; but suit may be afterwards brought from time to time, and judgment recovered thereon by the State of Montana, or by any person to whom a right of action has accrued against such officer and his sureties, until the whole penalty of the bond is exhausted.

Sec. 588. Whenever an official bond does not contain the substantial matter or conditions required by law or there are any defects in the approval or filing thereof, it is not void so as to discharge such officer and sureties; but they are equitably bound to the State or party interested; and the State or such party may, by action in any court of competent jurisdiction, suggest the defect in the bond, approval, or filing, and recover the proper and equitable demand or damages from such officer and the persons who intended to become and were included as sureties in such bond.

Sec. 589. Whenever it is shown by the affidavit of a creditable witness, or otherwise comes to the knowlege of the judge, court, board, officer, or other person whose duty it is to approve the official bond of any officer, that the sureties or any one of them have, since such bond was approved, died, removed from the State, become insolvent, or from any other cause have become incompetent or insufficient sureties on such bond, the judge, court, board, officer, or other person may issue a citation to such officer, requiring him on a day therein named, not less than three nor more than ten days after date, to appear and show cause why such office should not be vacated, which citation must be served, and return thereof made as in other cases. If the officer fails to appear and show good cause why such office should not be vacated, on the day named, or fails to give ample additional security, the judge, court, board, officer, or other person must make an order vacating the office, and the same must be filed as provided by law.

Sec. 590. The additional bond must be in such penalty as directed by the court, judge, board, officer, or other person, and in all other respects similar to the original bond, and approved by and filed with the same officer as required in case of the approval and filing of the original bond. Every such additional bond so filed and approved is of like force and obligation upon the principal and sureties therein, from the time of its execution, and subjects the officer and his sureties to the same liabilities, suits, and actions, as are prescribed respecting the original bonds of officers.

Sec. 591. In no case is the original bond discharged or affected when an additional bond has been given, but the same remains of like force and obligation as if such additional bond had not been given.

Sec. 592. The officer and his sureties are liable to any party injured by the breach of any condition of an official bond, after the execution of the additional bond, upon either or both bonds, and such party may bring his action upon either bond, or he may bring separate actions on the bonds respectively, and he may allege the same cause of action, and recover judgment therefor in each suit.

Sec. 593. If separate judgments are recovered on the bonds by such party for the same cause of action, he is entitled to have execution issued on such judgments respectively; but he must only collect by execution, or otherwise, the amount actually adjudged to him on the same causes of action in one of the suits, together with the costs of both suits.

Sec. 594. Whenever the sureties on either bond have been compelled to pay any sum of money on account of the principal obligor therein, they are entitled to recover in any court of competent jurisdiction, of the sureties on the remaining bond a distributive part of the sum thus paid, in the proportion which the penalties of such bonds bear one to the other and to the sums thus paid respectively.

Sec. 595. Whenever any sureties on the official bond of any officer wish to be discharged from their liability, they and such officer may procure the same to be done, if such officer will execute a new bond with sufficient sureties in like form, penalty, and conditions, and to be approved and filed as the original bond. Upon the filing and approval of the new bond such first sureties are exonerated from all further liability; but their bond remains in full force as to all liabilities incurred previous to the approval of such new bond. The liability of the sureties in such new bond is in all respects the same and may be enforced in like manner as the liability of the sureties in the original bond.

Sec. 596. Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as hereinbefore provided.

Sec. 597. Any surety on the official bond of a city, town, township, county, or State officer, may be relieved from liabilities thereon afterwards accruing, by complying with the provisions of the three sections following.

Sec. 598. Such surety must file with the judge, court, board, officer, or other person authorized by law to approve such official bond, a statement in writing setting forth the desire of the surety to be relieved from all liabilities thereon afterwards arising, and the reason therefor; which statement must be subscribed and verified by the affidavit of the party filing the same.

Sec. 599. A copy of the statement must be served on the officer named in such official bond, and due return or affidavit of service made thereon as in other cases.

Sec. 600. In ten days after the service of such notice, the judge, court, board, officer, or other person with whom the same is filed must make an order declaring such office vacant, and releasing such surety from all liability thereafter to arise on such official bond, and such office thereafter is in law vacant, and must be immediately filled by election or appointment, as provided for by law as in other cases of vacancy of such office, unless such officer has before that time given good and ample surety for the discharge of all his official duties as required originally.

Sec. 601. Whenever, from any cause, a surety on the official bond of any officer elected or appointed under the laws of this State withdraws from his bond or becomes insolvent or from other cause becomes incompetent to remain as surety thereon, such officer may file a supplemental bond, executed and approved in the same manner as the original bond, for the amount for which the surety so withdrawing or incompetent was bound by the original bond.

Sec. 602. The release, discharge, voluntary withdrawal or incompetency of a surety on any official bond, does not affect the bond as to the remaining sureties thereon, or alter or change their liability in any respect.

Sec. 603. Whenever a surety on any official bond gives notice of an intention to withdraw therefrom, or is removed, or becomes otherwise incompetent, the principal on the bond must, within ten days after such notice or disqualification, execute and file, subject to the same conditions as the original, a supplemental bond, wherein must be recited the names of the remaining original sureties and of the new surety or sureties, and the respective amounts for which he, or they, become bound, who are substituted in lieu of the surety, or sureties, released or disqualified.

Sec. 604. Whenever the original bond is given for an amount in excess of the sum required by law, if the withdrawal or removal of any surety does not reduce the bond below the amount required by law to be secured by sureties, then no supplemental or additional bond is required or necessary; and whenever any supplemental bond is so filed and approved, the officer with whom the bond is filed, or in whose office the same is recorded, must give ten days notice—by publication in some paper published in the county, or if there is no paper in the county, then in the county nearest thereto in which a newspaper is published, and in case of a bond of a State officer, in some paper at the seat of government, of the fact of the filing of the bond and the name of the party withdrawing from the former and the substitute on the new bond; and until the filing and approval of the supplemental bond the sureties on the former bond are liable for all the acts of their principal.

Sec. 605. No surety must be released from damages or liabilities for acts, omissions, or causes existing or which arose before the making of the order mentioned in Section 600, but such legal proceedings may be had therefor in all respects as though no such order had been made.

Sec. 606. The provisions of this Article apply to the bonds and undertakings of receivers, executors, administrators, and guardians.

Sec. 607. All bonds or undertakings given by trustees, receivers, assignees, or officers of a court, in an action or proceeding for the faithful discharge of their duties, where it is not otherwise provided, must be in the name of and payable to the State of Montana, and upon the order of the court where such action or proceeding is pending may be prosecuted for the benefit of any and all interested therein.

Sec. 608. When an action is commenced in any court in this State, for the benefit of the State, to enforce the penalty of, or to recover money upon an official bond or obligation, or any bond or obligation executed in favor of the State of Montana or of the people of this State, the attorney or other person prosecuting the action may file with the clerk of the court in which the action is commenced, an affidavit, stating either positively or on information and belief, that such bond or obligation was executed by the defendant, or one or more of the defendants, (designating whom,) and made payable to the people of the State or to the State of Montana, and that the defendant or defendants have real estate or some interest in lands (designating the county or counties in which the same is situated), and that the action is prosecuted for the benefit of the State, and thereupon the clerk of the court receiving such affidavit must certify to the county clerk in which such real estate is situated the names of the parties to the action, the name of the court in which the action is pending, and the amount claimed in the complaint, with the date of the commencement of the suit.

Sec. 609. Upon receiving such certificate, the county clerk must indorse upon it the time of its reception, and such certificate must be filed and recorded in the same manner as notices of the pendency of action affecting real estate ; and any judgment recovered in such action is a lien upon all real estate situated in any county in which such certificate is so filed, belonging to the defedant, or to one or more of such defendants, for the amount the owner thereof is or may be liable upon the judgment, from the filing of this certificate.

Sec. 610. Every officer or body appointing a deputy, clerk or subordinate officer, may require an official bond to be given by the person appointed, and may fix the amount thereof.

Sec. 611. The official bond of the county clerk must, after being recorded, be filed in the office of the county treasurer, and the safe keeping of the same is hereby made the duty of the county treasurer.

Sec. 612. In any action to compel the specific performance of an agreement to sell real estate affected by the lien created by the filing of the certificate mentioned in Section 609, which agreement was made prior to the filing of such certificate, but the purchase price thereof is not due until after the filing of said certificate, the judge of the district court in which said action for specific performance is tried, must, if the purchaser is otherwise entitled to specific performance of such agreement, order the said purchaser to pay the purchase price, or so much thereof as may be due, to the State Treasurer, taking his receipt therefor. Upon such payment the purchaser is entitled to enforce the specific performance of the agreement, and take said real estate free from the liens created from the filing of said certificate. The moneys so paid to the State Treasurer must be held by him, pending the litigation mentioned in said certificate, and subject to the lien created by the filing of said certificate. If judgment is recovered against the defendant the State Treasurer in his settlement must pay to the county treasurer entitled to the same, the amount due the county.

ARTICLE X.

RESINGNATIONS, VACANCIES, AND THE MODE OF SUPPLYING THEM.

Section 617. Resignations, to whom made.
" 618. Vacancies, how they occur.
" 619. Notice of removal, by and to whom given.
" 620. Vacancies in Legislative Assembly, how filled.
" 621. Vacancies, how filled when not otherwise provided for.
" 622. Vacancies occuring during recess of the Legislative Assembly.
" 623. Vacancies in certain State offices, how filled.
" 624. Powers and duties of officer filling unexpired terms.

Sec. 617. Resignations must be in writing and made as follows:

1. By the Governor and Lieutenant Governor, to the Legislative Assembly, if it is in session; and if not, then to the Secretary of State.

2. By all officers commissioned by the Governor, to the Governor.

3. By Senators and members of the House of Representatives, if the Legislative Assembly is not in session, to the Governor; if it is in session, to the presiding officer of the branch to which the member belongs, who must immediately transmit the same to the Governor.

4. By all county and township officers not commissioned by the Governor, to the clerk of the board of commissioners of their respective counties.

5. By all other appointed officers, to the body or officer that appointed them.

6. In all other cases not otherwise provided for, by filing the resignation in the office of the Secretary of State.

Sec. 618. An office becomes vacant on the happening of either of the following events before the expiration of the term:

1. The death of the incumbent.

2. His insanity, found upon a commission of lunacy issued to determine the fact.

3. His resignation.

4. His removal from office.

5. His ceasirg to be a resident of the State, or if the office be local, of the district, county, city, town, or township, for which he was chosen or appointed, or within which the duties of his office are required to be discharged.

6. His absence from the State, without the permission of the Legislative Assembly, beyond the period allowed by law.

7. His ceasing to discharge the duties of his office for the period of three consecutive months, except when prevented by sickness, or when absent from the State by permission of the Legislative Assembly.

8. His conviction of a felony, or of any offense involving moral turpitude, or a violation of his official duties.

9. His refusal or neglect to file his official oath or bond within the time prescribed.

10. The decision of a competent tribunal declaring void his election or appointment.

Sec. 619. Whenever an officer is removed, declared insane, or convicted of a felony, or offense involving moral turpitude, or a violation of his official duty, or whenever his election or appointment is declared void, the body, judge or officer before whom the proceedings were had, must give notice thereof to the officer authorized to fill the vacancy.

Sec. 620. Whenever a vacancy, or failure to elect by reason of a tie vote occurs in either house of the Legislative Assembly, the Governor must at once issue a writ of election to fill such vacancy.

Sec. 621. When any office becomes vacant, and no mode is provided by law for filling such vacancy, the Governor must fill such vacancy by granting a commission, to expire at the end of the next Legislative Assembly or at the next election by the people.

Sec. 622. Vacancies occuring in office during the recess of the Legislative Assembly, the appointment to which is vested in the Governor and Senate, or in the Legislative Assembly, must be filled by appointment made by the Governor; but the person so appointed can only hold the office until the adjournment of the next session of the Legislative Assembly.

Sec. 623. A vacancy in the office of either the Secretary of State, State Auditor, State Treasurer, Attorney General, clerk of the Supreme Court, or Superintendent of Public Instruction, must be filled by a person appointed by the Governor, who holds his office until the first Monday in January next after a general election. At such election the office must be filled by election for the unexpired term.

Sec. 624. Any person elected or appointed to fill a vacancy, after filing his official oath and bond, possesses all the rights and powers, and is subject to all the liabilities, duties, and obligations as if he had been elected to the office for a full term.

ARTICLE XI.

PROCEEDINGS TO COMPEL THE DELIVERY OF BOOKS AND PAPERS BY OFFICERS TO THEIR SUCCESSORS.

Section 628. Possession of books and papers.
" *629. Proceedings to compel delivery of.*
" *630. Attachment and warrant to enforce.*

Sec. 628. Every public officer is entitled to the possession of all books and papers pertaining to his office, or in the custody of a former incumbent, by virtue of his office.

Sec. 629. If any person, whether a former incumbent, or another person, refuse or neglect to deliver to the actual incumbent, any such books or papers, such actual incumbent may apply, by complaint to any District Court, or judge of the county where the person so refusing or neglecting resides, and the court or judge must proceed in a summary way, after notice to the adverse party, to hear the allegations and proofs of the parties, and to order any such books and papers to be delivered to the petitioners.

Sec. 630. The execution of the order, and delivery of the books and papers may be enforced by attachment as for a witness, and also, at the request of the plaintiff, by a warrant directed to the sheriff or a constable of the county, commanding him to search for such books and papers, and to take and deliver them to the plaintiff.

ARTICLE XII.

MISCELLANEOUS PROVISIONS.

Section 635. Great Seal.
" *636. Seals of Executive officers.*
" *637. Executive and judicial officers may administer oaths.*
" *638. Salaries of officers.*
" *639. Office hours.*
" *640. Signature of officers acting ex-officio.*
" *641. Records open to public inspection. Exceptions.*
" *642. Itemized accounts.*

Sec. 635. The great seal of the State is as follows: A central group representing a plow, a miner's pick and shovel; upon the right a representation of the Great Falls of the Missouri river; upon the left mountain scenery, and underneath, the words "Oro-y-Plata." The seal must be two and one-half inches in diameter, and surrounded by these words, "The Great Seal of the State of Montana."

Sec. 636. Each of the executive and State officers of the State must have a seal. Such seal must contain the same representations and motto as is found on the great seal, and must be two inches in diameter surrounded by the words. "State of Montana" (giving the title of the office, "Secretary of State," "State Treasurer," etc). An impression of the seal of executive and State officers must be filed in the office of the Secretary of State.

Sec. 637. Every executive, State and judicial officer may administer and certify oaths.

Sec. 638. Unless otherwise provided by law, the salaries of officers must be paid out of the general fund in the State treasury, quarterly, on the last day of the quarter.

Sec. 639. Unless otherwise provided by law, every officer must keep his office open for the transaction of business continuously from nine o'clock A. M. until five o'clock p. m. each day, and at other times when the accommodation of the public or the proper transaction of business requires, except upon holidays.

Sec. 640. When an officer discharges ex-officio the duties of another office than that to which he is elected or appointed, his official signature and attestation, except as otherwise provided by law, must be in the name of the office the duties of which he discharges.

Sec. 641. The public records and other matters in the office of any officer are at all times, during office hours, open to the inspection of any person. In cases of attachment, the clerk of the court with whom the complaint is filed must not make public the fact of the filing of the complaint, or the issuing of such attachment, until after the filing of return of service of attachment.

Sec. 642. All State officers and appointees must produce itemized accounts for all moneys, other than salaries, expended by them, accompanied by affidavit that the money has been expended.

TITLE II.

ELECTIONS.

Chapter I. General provisions relating to elections.
" II. Qualifications and disabilities of electors.
" III. Registration of electors.

Chapter IV. Election precincts.
" V. Boards of election.
" VI. Opening and closing the polls.
" VII. Poll lists.
" VIII. Election tickets and ballots.
" IX. Voting and challenges.
" X. Canvassing and returning the vote.
" XI. Canvass of returns, declaration of result, commissions and certificates of election.
" XII. Elections for electors of President and Vice President.
" XIII. Elections for members of Congress.

CHAPTER I.

GENERAL PROVISIONS RELATING TO ELECTIONS.

Article I. Time of holding elections.
" II. Election proclamations.
" III. Miscellaneous provisions.

ARTICLE I.

TIME OF HOLDING ELECTIONS.

Section 650. General election, when to be held.
" 651. Special elections, when to be held.

Sec. 650. There must be held thoughout the State, on the first Tuesday after the first Monday of November, in the year eighteen hundred and ninety-two, and in every second year thereafter, an election, to be known as the general election.

Sec. 651. Special elections are such as are held to supply vacancies in any office and are held at such times as may be designated by the proper officer or authority.

ARTICLE II.

ELECTION PROCLAMATIONS.

Section 653. Election proclamations by the Governor.
" 654. Governor's proclamation. What to contain.
" 655. Publication and posting by county commissioners.
" 656. Election proclamation by county commissioners.

Sec. 653. At least sixty days before a general election, and whenever he orders a special election to fill a vacancy in the office of State Senator or member of the House of Representatives, at least ten days before such special election the Governor must issue an election proclamation, under his hand

and the great seal of the State, and transmit copies thereof to the boards of commissioners of the counties in which such elections are to be held.

Sec. 654. Such proclamation must contain :

1. A statement of the time of election, and the offices to be filled.

2. An offer of rewards in the following form : "And I do hereby offer a reward of one hundred dollars for the arrest and conviction of any person violating any of the provisions of Title IV., Part I., of the Penal Code. Such rewards to be paid until the total amount hereafter expended for the purpose reaches the sum of five thousand dollars."

Sec. 655. The Board of County Commissioners upon the receipt of such proclamation, may, in the case of general or special elections, cause a copy of the same to be published in some newspaper printed in the county, if any, and to be posted at each place of election at least ten days before the election ; and in case of special elections to fill a vacancy in the office of State Senator or member of the House of Representatives, the Board of County Commissioners, upon receipt of such proclamation, may, in their discretion, cause a copy of the same to be published or posted as hereinbefore provided, except that such publication or posting need not be made for a longer period than five days before such election.

Sec. 656. Whenever a special election is ordered by the Board of County Commissioners, they must issue an election proclamation, containing the statement provided for in Subdivision 1, of Section 654, and must publish and post it in the same manner as proclamations issued by the Governor.

ARTICLE III.

MISCELLANEOUS PROVISIONS.

Section 660. Plurality to elect.
" *661. Proceedings on tie vote for Governor. Other State officers and county officers.*
" *662. No fees for certificate of registration.*
" *663. Compensation of officers of election.*
" *664. County commissioners to have blanks prepared.*

Sec. 660. The person receiving at any election the highest number of votes for any office to be filled at such election, is elected thereto.

Sec. 661. In case any two or more persons have an equal and highest number of votes for either Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, State Auditor, Clerk of the Supreme Court, Superintendent of Public Instruction, or any other State executive officer, the Legislative Assembly, at its next regular session must, forthwith, by joint ballot of the two houses, elect one of such persons to fill such office; and in case of a tie vote for Clerk of the District Court, county attorney, or for any county officer except county commissioner, and for any township officer, the Board of County Commissioners must appoint some eligible person, as in case of other vacancies in such offices; and in case of a tie vote for county commissioner, the district judge of the county must appoint an eligible person to fill the office, as in other cases of vacancy.

Sec. 662. No fees must be charged for registration or certificate thereof.

Sec. 663. The compensation of members of Boards of Election, including judges and clerks, is three dollars per day, and must be audited by the Board of County Commissioners, and paid out of the county treasury.

Sec. 664. The necessary printed blanks for poll lists, tally lists, lists of electors, tickets, and returns, together with envelopes in which to enclose the returns, must be furnished by the Boards of County Commissioners to the officers of each election precinct at the expense of the county.

CHAPTER II.

QUALIFICATIONS AND DISABILITIES OF ELECTORS.

Section 670. Elections to be by ballot.
" *671. Qualifications of voter.*
" *672. Residence.*
" *673. Privileged from arrest.*
" *674. Exempt from military duty on election day.*
" *675. Idiot or insane.*
" *676. Women at school election.*
" *677. Women tax payers.*
" *678. Who are tax payers.*

Sec. 670. All elections by the people shall be by ballot.

Sec. 671. Every male person of the age of twenty-one years or over, possessing the following qualifications, if his name is registered as required by law, is entitled to vote at all general and special elections and for all offieers that now are, or hereafter may be, elective by the people and upon all questions which may be submitted to the vote of the people: First, he must be a citizen of the United States; second, he must have resided in the State one year and in the county thirty days immediately preceding the election at which he offers to vote. No person convicted of felony has the right to vote unless he has been pardoned. Nothing in this section contained shall be construed to deprive any person of the right to vote who had such right at the time of the adoption of the State Constitution. After the expiration of five years from the time of the adoption of the State Constitution no person except citizens of the United States have a right to vote.

Sec. 672. For the purpose of voting, no person gains or loses a residence by reason of his presence or absence while employed in the service of the State or of the United States, nor while engaged in the navigation of waters of the State or of the United States, nor while a student at any institution of learning, nor while kept at any alms house or other asylum at the public expense, nor while confined in any public prison.

Sec. 673. Electors must in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

Sec. 674. No elector is required to perform military duty on the days of election, except in times of war or public danger.

Sec. 675. No idiot or insane person is entitled to vote at any election in this State.

Sec. 676. Women have the right to vote at any school district election.

Sec. 677. Upon all questions submitted to the vote of the tax payers of the State, or any political division thereof, women who are tax payers and possessed of the qualifications for the right of suffrage required of men by the State Constitution, equally with men, have the right to vote.

Sec. 678. The payment of a tax upon property by any person assessed therefor on a county or city assessment roll next preceding the election at which a question is to be submitted to the vote of the tax payers of the State, or to the vote of the tax payers of such county or city, or any sub-division thereof, constitutes such person a tax payer at such election within the meaning of the last preceding section.

CHAPTER III.

REGISTRATION OF ELECTORS.

Section 685. Registration districts, laying out.
" *686. Registry agents, qualifications of.*
" *687. Vacancy to be filled by chairman of Board of County Commissioners.*
" *688. Failure of registry agent to qualify.*
" *689. Oath of applicant when there is no registry agent in the district.*
" *690. County Commissioners to furnish books and supplies to registry agents.*
" *691. Registry agents to register electors at what time.*
" *692. What registry agent required to do.*
" *693. Notice of registration to be published.*
" *694. Oath of elector, books to be open to public.*
" *695. Questions to be asked an elector on applying for registration; registration good for two years.*
" *696. Rules for the purpose of determining residence.*

Section 697. Naturalized citizen, how registered and questions asked.
" 698. List of electors registered to be posted by registry agent.
" 699. Notices that objections will be received and mistakes corrected, challenges, etc.
" 700. Registry agent to make copy of official register and "check lists."
" 701. Official register, check books and other papers to be delivered to judges of election.
" 702. Transfer of elector from one district to another.
" 703. Oath of registry agents.
" 704. Compensation of.
" 705. Appointments of Board of County Commissioners to be published.
" 706. Municipal elections not affected by this Chapter.
" 707. Special elections.
" 708. Clerk to furnish copy of official register.

Sec. 685. The Boards of County Commissioners of the several counties of Montana must at each regular June meeting to be held every general election year, lay out their respective counties in convenient registration districts, which shall be numbered and known as Registration District No. 1, Registration District No. 2, and so on. There must not be less than two nor more than twenty registration districts in any county. The county commissioners must, in creating and establishing said registration districts, include in a district as many polling precints as are necessary and convenient for the voters of the said registration district wherein such precincts may be established. The precincts must be established as provided by law, and no precinct must be established at a greater distance than ten miles from the office of a registry agent.

Sec. 686. There must be one registry agent for each registration district created pursuant to this Chapter. All registry agents must be competent persons, and must be appointed by the Board of County Commissioners. They must be resident freeholders and qualified voters in the several districts for which they are respectively appointed. They are authorized to administer oaths and affirmations, and to do such other acts as may be necessay to fully carry out the provisions of this chapter. A registry agent holds his office until his successor is appointed and qualified. No person a candidate for, or who holds a State, county or other office is eligible to or shall hold the office of registry agent of elections. All registry agents must be appointed each regular general election year at the regular June meeting of the Board of County Commissioners, and hold their offices for the period of two years, except as in this Chapter otherwise provided, but they are subject to removal at any time by the Board of County Commissioners. In any registration district wherein any incorporated city, containing five thousand population or more, is situated, it is lawful for the county commissioners to appoint two or more registry agents, and in any district where two or more registry agents are so appointed, the county commissioners must allot, by order entered upon their minutes, to each of such agents the particular precincts in which such agents shall make the registration under this Chapter.

Sec. 687. It is the duty of the chairman of the Board of County Commissioners of any county in the State, when he has received notice from any citizen, of the death, disqualification or resignation of any registry agent, after the opening and prior to the closing of the books of registration, to immediately, without giving notice, appoint some competent person to fill such vacancy, and it is the duty of the person so appointed to qualify within two days after receiving notice of such appointment.

Sec. 688. If the person so appointed fail to qualify within the time herein provided, voters may, upon producing evidence as to their right to vote, be registered in any other district in said county, and any person so registered in any other district must, upon presentation and surrender of a certificate of registration, signed by the registry agent of said district, be considered a legal voter in the precinct of the district in which he is a resident.

Sec. 689. If any person applies to be registered in any district other than the one in which he resides, and is entitled upon proof, to a certificate of registration, as provided for in the next preceding section, such applicant, in addition to the proof required by this Chapter to entitle him to registration, must take and subscribe to an oath before the registry agent, in substantially the following form:

——————Montana,——————18—

I do solemly swear that I make this application for registration in District No. —— of ——— County of ——— Montana, because there is no registry agent within Registration District No.——, which is the district where I reside and am entitled to vote.

Subscribed and sworn to before me this———day of——— 18—.

———Registry Agent.

Whereupon such person is entitled to receive from the registry agent of such district a certificate, which must bear the registry seal, and be substantially as follows, to-wit:

REGISTRATION CERTIFICATE.

I hereby certify that———is a citizen of the United States, of the age of———years, and has been a resident of Montana for the past year, or if not a citizen, had declared his intention to become such before the adoption of the Constitution, that on the first day of October, 1889, he had been a resident of

Montana for six months immediately preceding that time, and a resident of the county for thirty days, and that he is in all respects a qualified registered elector under the laws; and I further certify that the reason he applies for, and that I give this registration certificate, is because within Registration District No.———, where he resides, there is no registry agent. And I further certify that he is under the law entitled to vote in the———precinct of Registration District No.———, ——— county, Montana.

Witness my hand and seal of office in Election District No. ———, ———county, Montana.

[SEAL] ————————————

Registry agent Registration District No.———, ———county, Montana.

Sec. 690. The Board of County Commissioners of the several counties must provide for registry agents in their respective counties when and where required, all proper and necessary books, seals, and stationery to carry out the provisions of this Chapter. They must furnish to each registry agent a bound book, which is known as the "Official Register," and must be ruled in columns of suitable dimensions to provide for the following entries opposite the name of each elector, to-wit:

1. Number on the register.
2. Date of registration.
3. Name of elector.
4. Age of elector.
5. Where born.
6. Number of ward or name of precinct.
7. Description of residence.
8. Certificate of naturalization exhibited, or certificate of declaration of intention to become a citizen, or a certified copy thereof.

They must also furnish each registry agent with a seal upon which must be engraved substantially as follows: ——— county, Montana, registry seal, Registration District No.———. The name of the county and the number of the registration district must be engraved upon the seal to correspond to the county and registration district in which such seal is to be used.

Sec. 691. It is the duty of the registry agents at any time when called upon to do so at their respective offices, and not elsewhere, between the hours of two p. m. and eight p. m., on all legal days from and after the fifteenth day of September to the fifth day of October, and between the hours of ten a. m. and ten p. m. from the fifth day of October to and including the fifteenth day of October, prior to any general election, not herein otherwise provided for, to receive and register the names of all persons legally qualified and entitled to vote at such election, or who will have legally acquired a residence (being otherwise qualified), and who have a right to vote at such ensuing election according to the provisions of law under which such election may be held in each election precinct within their respective districts.

Sec. 692. Registry agents must enter on the official register, under the proper heading, the number and date of registration, the name (with the first or given name in full), the age and nativity of the elector, together with the number of the ward (if within an incorporated city or town), the name of the precinct, and a particular description of the house, building or room in which he resides; such as will enable a person of common understanding to find the same without difficulty, and when the person so registered is of foreign birth, the fact of the exhibition of, or failure to exhibit, his certificate of naturalization, or certificate of declaration of intention to become a citizen, or a certified copy thereof, must be noted in the column provided for that purpose, which list, properly entered, as in this section required, is known as the "Official Register" of electors of their respective districts. If any person fails or refuses to give his residence with the particularity required in this section, he must not be registered.

Sec. 693. Each registry agent must cause to be published in at least one newspaper published within his district, and if there be no newspaper published in such district, then in a newspaper published at the nearest point to his district, and within the county in which such district is situated, for twenty days before the expiration of the time provided for registration prior to any general election, a notice signed by the registry agent to the effect that the time for the registration of the names of the qualified electors in Election District No.———, giving also the names of the several precincts embraced within such registration district, prior to the ——— election (specifying the election), to be held on the ——— day of ———, A. D. 18——, for the county of ———, Montana, will expire at ten o'clock P. M., on the ——— day of ———, A. D. 18——. The publication of said notice must continue until the expiration of the time provided for said registration. If there be no newspaper published in said district, then by posting copies of such notice in not less than five conspicuous places within said district.

Sec. 694. Every person applying to be registered must, before he is entitled to have his name registered, take and subscribe the following oath or affirmation, which must be administered by the registry agent; but no elector who has taken said oath at the time of the previous registration in Montana, is required to do so the second time in the same district, to-wit: "I do solemnly swear, or affirm, that I am a citizen of the United States (or, that I had declared my intention to become a citizen of the United States prior to October first, 1889); that I am of the age of twenty-one years, and will have been a resident of Montana one year, and in the county thirty days next preceding the day of the next ensuing election, and that I am not registered elsewhere in Montana for this electoral year, so help me God (or under the pains and penalties of perjury)." The registry books and lists must be open at any time for inspection by any qualfied elector.

Sec. 695. When any person appears and demands to be registered whom the registry agent does not know to be entitled to registry under the qualifications required by law, for the election then ensuing, the registry agent must question the applicant generally, under oath, as to his qualifications as an elector, and, if satisfied must enter his name in the register, but if the registry agent is not fully satisfied or if the applicant be challenged by a qualified elector of the county, stating distinctly the grounds of challenge, the registry agent must require the applicant to answer truly, under oath or affirmation, the following questions, together with such other other questions as said registry agent may consider necessary or proper, testing his qualifications as an elector for the ensuing election, to-wit:

1. Are you a citizon of the United States, or did you declare your intention to become such prior to October first, 1889?

2. Are you now, or will you be twenty-one years of age prior to the day of the next ensuing election?

3. On the day of the next ensuing election, will you have resided in Montana one year, and in this county thirty days next preceding the day of said election?.

4. Are you now a resident of the registration district in which you propose to be registered?

5. Are you registered for this electoral year in any other registration district in the name you have now given, or in any other name?

If any of the foregoing questions are answered in the negative except the fifth, or that in the affirmative, the applicant must not be registered; but if the applicant answer all the foregoing questions in the affirmative, except the fifth, and that in the negative and if the answers to other questions propounded do not show him to be disqualified, the applicant must be registered. A resident within the meaning of this Chapter must be construed to mean a person who has resided or will have resided continuously within Montana for one year, and in the county thirty days next preceding the day of the next ensuing election. Whenever a person is registered under the provisions of this Chapter, such registration is good for two years, if such persons retain all the necessary qualifications of an elector, as defined in this Title, but a change of residence in a precinct, county or district requires a new registration.

Sec. 696. For the purpose of registration or voting, the place of residence of any person must be governed by the following rules, as far as they are applicable:

1. That place must be considered and held to be the residence of a person, in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

2. A person must not be held to have gained or lost residence by reason of his presence or absence while employed in the service of the United States, or this State, nor while a student at any institution of learning, nor while kept at any almshouse or other asylum at the public expense, nor while confined in any public prison.

3. No soldier, seaman or marine in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed at any military or naval place within the same.

4. A person must not be considered to have lost his residence who leaves his home to go into another State, or precinct in this State, for temporary purposes merely, with the intention of returning.

5. A person must not be considered to have gained a residence in any county into which he comes for temporary purposes merely, without the intention of making such county his home.

6. If a person removes to another State with the intention of making it his residence, he loses his residence in this State.

7. If a person removes to another State with the intention of remaining there for an indefinite time, and as a place of present residence, he loses his residence in this State, notwithstanding he entertains an intention of returning at some future period.

8. The place where a man's family resides is presumed to be his residence, but any man who takes up or continues his abode with the intention of remaining at a place other than that where his family resides, must be regarded as a resident where he so abides.

9. A change of residence can only be made by the act of removal joined with the intent to remain in another place. There can be only one residence. A residence cannot be lost until another is gained.

10. The term residence must be computed by including the day on which the person's residence commences and by excluding the day of election.

Sec. 697. When a naturalized citizen, or a person who has declared his intention to become a citizen, applies for registration, his certificate of naturalization, or certificate of intention to become a citizen, or certified copy thereof, must be produced and stamped, or written in ink by the registry agent, with such registry agent's name and the year and county where presented, but if it satisfactorily appears to the registry agent, by the oath or affirmation of the applicant (and the oath or affirmation of one or more credible citizens as to the credibility of such applicant when deemed necessary), that such certificate of naturalization or certificate of intention to become a citizen, or a certified copy thereof, is lost or destroyed, or beyond the reach of the applicant for the time being, said registry agent must register the name of said applicant, unless he be by law otherwise disqualified, but in case of failure to produce the certificate of naturalization, or certificate of declaration of intention to become a citizen, or a certified copy thereof, the registry agent must propound to him the following questions:

1. In what year did you come to the United States?

2. In what State or Territory, county, court, and year, did you declare your intention to become a citizen?

3. In what State or Territory, county, court, and year, were you finally admitted to citizenship?

4. Where did you last see your certificate of naturalization, or your certificate of declaration of intention to become a citizen, or a certified copy thereof?

The answers to the above questions must be taken down in the form of an affidavit, which must be subscribed and sworn to by the applicant, and retained in possession by the registry agent, and by him handed over to his successor. No person is required to make the affidavit twice before the same agent or the successor of such agent, having in his possession a former affidavit.

Sec. 698. On the day next succeeding that on which the registration of electors, prior to any election mentioned in this chapter, shall have been closed, the registry agents must, with all reasonable expedition, and within seven days, prepare and cause to be written or printed, a full and complete and true list of all the names registered by them, and then remaining on the official register for each election precinct, alphabetically arranged, commencing with the surname of each, and they must write or print such reasonable number of copies of each registration district list as they may deem necessary, showing on one sheet, but under separate headings in such list, the registered voters in each precinct in the district, at least five copies of which said lists they must cause to be posted up in as many public and conspicuous places within each and every district to which they apply. Each registry agent must, as soon as such lists are printed or written, subscribe and make oath to one copy thereof as being a true, correct and complete list of all electors registered in his registration district from the commencement to the close of the registration in such district; and must within two days after the publication or writing of such lists, deliver personally or by registered letter such verified copy to the county clerk of the county, to be by him posted in a conspicuous place in his office until election day, and thereafter filed away as are other records of the county, and the remainder of such lists must be distributed among the electors of the respective precincts.

Sec. 699. The registry agents must give notice in said lists that they will receive objections to the right to vote of any person so registered until six o'clock P. M. on the seventh day previous to the day of election: and also requesting all persons whose names may be erroneously entered in said lists to appear at the proper registry office and have such error corrected. Such objections to the right to vote of any person registered must be made only by a qualified elector, in writing, duly verified, setting forth the ground of objection or disqualification. The registry agent before whom any such affidavits are made must carefully preserve the same and deliver them with the "check lists" and other papers required by this Chapter to be delivered to the judges of election, as is in this Chapter provided, and he must write distinctly opposite to the name of any person to whose qualifications as an elector objections may be thus made, the words, "to be challenged," or words to that effect. It is the duty of the judges of election, if on election day such person who has been objected to applies to vote, to test under oath his qualifications, and if he is found to be disqualified for any cause under the law, or if he refuses to take an oath as to his qualification, he must not be permitted to vote.

Sec. 700. During the time intervening between the closing of any registration of electors and the day of the next ensuing election each registry agent must carefully copy from the official register into suitable books, one for each election precinct within his district, the names of electors registered for such election precinct, alphabetically arranged (the surname first), entering opposite each name the number it bears on the official register, together with words requiring challenges and all other entries therein found, opposite the name. The registry agent must also compare and complete in a book, not later than two days next preceeding that on which the election is to be held, one for each election precinct, and which is known as the "Check List," a list of the names of all electors found on the official register, for such election precincts, alphabetically arranged, (the surname first,) with the number each name bears in the official register placed at the left of the name, and with a blank column at the right of the column of names, formed by two parallel perpendicular lines, for the use of the judges at the election; said blank column last mentioned must have written headings made by the registry agent, showing what particular election the said "Check List" applies to, as, for instance, "Voted at the General Election, 1892."

Sec. 701. The copy of the official register, together with the "Check List," for each election precinct, must be carefully prepared and duly certified to by the registry agent, and delivered, together with affidavits mentioned in the preceding sections of this chapter, to one of the judges of election, in each election precinct, at a time not later than the day next preceding that on which such election is to be held, and such "Check List" and any surrendered certificates which may have come into the hands of such registry agent pursuant to this Chapter, must be preserved and transmitted by the judges of election to the county clerk as a part of the "Election Returns," as provided by law; if any registry agent fails or refuses to furnish to the judges of election of any precinct lists of the registered voters in said precinct, as provided for in the preceding section, the judges of election are authorized to take a copy of the printed or written list of registered voters in said precinct, as provided for in this Chapter, and conduct the election in said precinct in accordance with the provisions of this Title, and their returns must show the reason for using the printed or written list instead of the registered list, at such election.

Sec. 702. Any registered elector moving from one registration district to another, prior to the day of the ensuing election, may apply to the registry agent before whom he has already been registered for that year at any time prior to the last day of the registration of voters, and have his name taken off the official register, and receive from the registry agent a certificate, to be called a State registry certificate, under the signature and seal of the registry agent, showing substantially that he was, on a certain day, duly registered in the official register of Registration District No.———, in the county of———, Montana, and that his name has been erased at his own request, which certificate will entitle him to have his name registered within the period of registration in the same manner as other names are registered in any other registration district, either within the same county, or in any other county, for said election; provided it satisfactorily appears to the registry agent receiving the certificate and to whom application is made for the second registration, that the applicant will have resided such length of time within such county and registration district prior to the next ensuing election, as is provided by law, to entitle him to vote. And in case any registered and qualified elector has received a State registration certificate pursuant to this section, and has for good cause been unable to register a second time anywhere within the State before the date of the closing of the registration books, he may offer a vote within the county where he resides and was registered, at any precinct other than the precinct where he was registered. The judges of election must challenge such person and put to him under oath such questions as will test his identity as the person to whom such certificate was issued, and such other questions as may to them seem proper, in order to fully test such person's qualifications, and if he be disqualified for any cause, or fail or refuse to answer any question concerning his qualifications, or if he fails to prove his identity, he must not be permitted to vote; but if he be qualified he must surrender his certificate, and the judges must enter his name on the list, and he is entitled to vote.

Sec. 703. Before entering upon the duties prescribed in this Chapter, the registry agents must severally take and subscribe before an officer duly authorized to administer oaths, the constitutional oath of office, which must be filed in the office of the county clerk of their respective counties.

Sec. 704. The several registry agents are entitled to receive as full compensation for all services rendered by them under the provisions of this Chapter, such sums as may be allowed by the county commissioners, and such compensation may be a per capita of twenty-five cents for each and every qualified elector registered in each year, or it may be a per diem not to exceed five dollars. In no event must registry agents receive more than at the rate of five dollars per day, whether the basis of their compensation be a per capita or otherwise, and their right of compensation is a county charge, and their accounts must be made out so as to clearly show the number of names by them severally registered during the year, and sworn to and filed with the Board of County Commissioners of their respective counties, and said claims, together with all other just and reasonable demands for books, advertising and printing, necessarily incurred in carrying out the requirements of this Chapter, must be audited and paid out of the general fund of the several counties as other county charges.

Sec. 705. The clerk of the Board of County Commissioners must make full and minute entries of all proceedings had under this Chapter, and publish in a newspaper printed in the county the names of the registry agents appointed, and notify in writing the registry agents of their appointment.

Sec. 706. Nothing in this Chapter must be construed to affect the laws regulating the registration of voters in municipal elections.

Sec. 707. At any special election held for any purpose in any county, copies of the official register and check list, which were printed or written before and used at the next preceding general election, must be used, and no new registration need be made.

Sec. 708. Before the day on which such special election is appointed to be held, the county clerk must furnish one of the judges in each election precinct, at a time not later than one day next preceding the day the election is to be held, a copy of the official register and a check list, for his precinct, but no copies need be posted.

CHAPTER IV.

ELECTION PRECINCTS.

Section 715. *County commissioners to establish election precincts.*
" 716. *Boundaries must be defined.*
" 717. *Board may alter, etc., precincts.*
" 718. *Limitations on powers given herein.*
" 719. *Board to designate place in precinct for holding election.*
" 720. *Proceedings where place not designated, etc.*
" 721. *No precinct to be established in the Indian country.*

Sec. 715. The Board of County Commissioners of each county must establish a convenient number of election precincts therein, which precincts must continue as established until changed.

Sec. 716. In the order establishing precincts, the boundaries thereof must be defined with as much accuracy as practicable.

Sec. 717. The board may, at the regular session next preceding a general election or special election, change the boundaries of, create new, or consolidate established precincts; but no precinct must be established, nor must the boundaries of one already established be altered after the first day of registration, as provided in Chapter III., of this Title. Prior to that day the board has discretionary power, on petition of ten qualified voters in any election precinct, to vacate, change, consolidate, remove or establish any voting precincts within any registration district, but the change or alteration of precincts must be made in such a manner as that each precinct shall not contain more than four hundred voters.

Sec. 719. The board must, at the session at which judges of election are appointed, make an order designating the house or place within the precinct where the election must be held.

Sec. 720. If the board fail to designate the house or place for holding the election, or if it cannot be held at the house or place designated, the judges of election, or a majority of those acting as such in the precinct must, two days before the election and by an order, under their hand (copies of which they must at once post in three public places in the precinct), designate the house or place.

Sec. 721. No officer of this State, nor of any county, must establish a precinct within the limits of any county not fully organized, or at any Indian agency, or at any trading post in the Indian country, or on any Indian reservation.

CHAPTER V.

JUDGES OF ELECTION.

Section 730. *Judges of election, how appointed.*
" 731. *Number of judges to be appointed.*

Section 732. Number appointed in new precincts.
" 733. Not more than a majority to be from any one political party.
" 734. Clerk to give notice to judges of appointment. Electors to elect judges in case of vacancy.
" 735. Judges to choose clerks and to serve until others appointed.
" 736. Clerks to mail to judges notices of election. Form of notice.
" 737. Notices to be posted by the judges.
" 738. Oath of judges and clerk.
" 739. Judges and clerks may administer oaths.
" 740. Ballot box to be provided.
" 741. Size of the opening of the ballot box.
" 742. Ballot box to be exhibited.
" 743. County clerk to have printed instructions to the electors.

Sec. 730. The Board of County Commissioners of the several counties, at the regular session next preceding a general or special election, must appoint five judges of election for each precinct in which the voters therein, by the last registration, were one hundred or more, and three judges of election for each precinct in which such registration was less than one hundred.

Sec. 731. The Board of County Commissioners, notwithstanding the registration, may appoint five judges of election for each precinct in which, upon information obtained by them, they have reason to believe contains one hundred voters or more, and three judges of election in precincts which upon information obtained by them, they have reason to believe contains less than one hundred voters.

Sec. 732. In any new precinct established, the Board of County Commissioners must, in like manner, appoint five or three judges of election, according to the estimated number of voters therein, as required by the two next preceding sections.

Sec. 733. In making the appointment of judges of election not more than a majority of such judges must be appointed from any one political party for each precinct.

Sec. 734. The clerk of the board must make out and forward by mail, immediately after the appointment of the judges, a notice thereof in writing, directed to each of them. In case there is no postoffice in any one or more of the precincts in any county, the clerk must forward notices of such appointment by registered mail to the postoffice nearest such precinct, directed to the judges aforesaid. If in any of the precincts any of the judges refuse or neglect to serve, the electors of such precinct may elect a judge or judges to fill vacancies on the morning of the election, to serve at such election.

Sec. 735. The judges must elect two persons having the same qualifications as themselves, to act as clerks of the election. The judges continue judges of all elections to be held in their respective precincts until other judges are appointed; and the clerks of election continue to act as such during the pleasure of the judges of election, and the County Commissioners must from time to time fill vacancies which may occur in the offices of judges of election in any precinct within their respective counties.

Sec. 736. The clerks of the several Boards of County Commissioners must, at least thirty days before any general election, make and forward by mail to such judge or judges as are designated by the county commissioners, three written notices for each precinct, said notices to be substantially as follows:

Notice is hereby given that on the first Tuesday after the first Monday of November, 18——, at the house ———, in the county of ———, an election will be held for ——— (naming the offices to be filled, including electors of President and Vice President, a Representative in Congress, State, county and township officers), and for the determination of the following questions (naming them), the polls of which election will be open at eight o'clock in the morning, and continue open until six o'clock in the afternoon of the same day.

Dated this ——— day of ———, A. D., 18——.

Signed, A. B., Clerk of the Board of County Commissioners.

Sec. 737. The judges to whom such notice is directed, as provided in the next preceding section, must cause to be put up in three of the most public places in each precinct the notices of election in such precinct, at least ten days previous to the time of holding any general election, which notices must be posted as follows: One at the house where the election is authorized to be held, and the others at the two must public and suitable places in the precinct.

Sec. 738. Previous to votes being taken, the judges and clerks of election must take and subscribe the official oath prescribed by the Constitution. It is lawful for the judges of election, and they are hereby empowered, to administer the oath to each other, and to the clerks of the election.

Sec. 739. Any member of the board, or either clerk thereof, may administer and certify oaths required to be administered during the progress of an election.

Sec. 740. There must be provided by the Board of County Commissioners, and kept by the judges of each election precinct, at the expense of the county, a suitable ballot box with a lock and key.

Sec. 741. There must be an opening in the lid of such box of no larger size than shall be sufficient to admit a single folded ballot.

Sec. 742. Before receiving any ballots the judges must, in the presence of any persons assembled at the polling place, open and exhibit the ballot box and remove any contents therefrom, and then close and lock the same, delivering the key to one of their members, and thereafter the ballot box must not be removed from the polling place or presence of the bystanders until all the ballots are counted, nor must it be opened until after the polls are finally closed.

Sec. 743. The county clerk of each county must cause to be printed in large type on cards, in the English language, instructions for the guidance of electors in preparing their ballots. He must furnish six cards to the judges of election in each election precinct, and one additional card for each fifty registered electors, or fractional part thereof, in the precinct, at the same time and in the same manner as the printed ballots. The judges of election must post not less than one of such cards in each place or compartment provided for the preparation of ballots, and not less than three of such cards elsewhere in and about polling places upon the day of election. Said cards must be printed in large, clear type, and must contain full instructions to the voters as to what should be done, viz.:

1. To obtain ballots for voting.
2. To prepare the ballots for deposit in the ballot boxes.
3. To obtain a new ballot in the place of one spoiled by accident or mistake. Said card must also contain a copy of Sections 47, 51, 52, 53, 54 and 55, of the Penal Code. There must also be posted in each of the compartments, or booths, one of the official tickets, as provided in Chapter IX., of this Title, without the official stamp, and not less than three such tickets posted elsewhere in and about the polling places, upon the day of election.

CHAPTER VI.

OPENING AND CLOSING OF POLLS.

Section 750. Time of opening and closing of polls.
" 751. Proclamation at opening and thirty minutes before closing polls.
" 752. Proclamation at closing polls.

Sec. 750. The polls must be opened at eight o'clock on the morning of election day and must be kept open continuously until six o'clock in the afternoon of said day, when the same must be closed.

Sec. 751. Before the judges receive any ballots, they must cause it to be proclaimed aloud at the place of election that the polls are open, and thirty minutes before the closing of the polls proclamation must be made that the polls will close in one half hour.

Sec. 752. When the polls are closed that fact must be proclaimed aloud at the place of election; and after such proclamation no ballots must be received.

CHAPTER VII.

POLL BOOKS.

Section 756. County Commissioners to furnish poll books.
" 757. Clerk to forward poll books to judges.
" 758. Form of poll book.
" 759. Want of form not to vitiate.

Sec. 756. The Board of County Commissioners of each county must furnish for the several election precincts in each county, poll books, after the forms hereinafter prescribed.

Sec. 757. The clerk of the board must forward by mail, as a registered package, to one of the judges of election so appointed, in each precinct, at least ten days prior to any general election and five days prior to any special election, two of such blank poll books for the use of the judges of such precinct.

Sec. 758. The following is the form of poll books to be kept in duplicate by the judges and clerks of election:

Poll Book of Precinct No. ———.

Number and names of electors voting.

No.	Name.	No.	Name.	No.	Name.

Total number of votes cast at Precinct No. ———.

We, the undersigned, judges and clerks of an election held at Precinct No. ———, in the County of ———, in the State of Montana, on the ——— day of ———, 18———, having first been severally sworn according to law, hereby certify that the foregoing is a true statement of the number and names of the persons voting at said precinct at said election, and that the following named persons received the number of votes annexed to their respective names for the following described offices, to-wit:

Governor.	Members of Legislative Assembly.	
	Senate.	House of Representatives.
A. B., —— Votes.	E. F., ——— Votes.	G. H., ——————— Votes.
C. D., —— Votes.		

Certified and signed by us.

——————————
—————————— } Clerks.

——————————
——————————
—————————— } Judges.
——————————
——————————

Sec. 759. No poll book or certificate returned from any election precinct must be set aside or rejected for want of form nor on account of its not being strictly in accordance with the directions of this Title, if it can be satisfactorily understood.

CHAPTER VIII.

CANDIDATES AND QUESTIONS FOR THE ELECTION.

Section 765. Convention or primary meeting may nominate candidates. Meaning of convention or primary meeting.
" *766. Certificate of nomination what to contain.*
" *767. Certificate where filed.*
" *768. Certificates of nomination otherwise made.*
" *769. Certificate not to contain certain things. One person not to be nominated for more than one office.*
" *770. Certificates to be preserved one year.*
" *771. When certificate to be filed.*
" *772. Secretary of State to certify to county clerk names of persons nominated.*
" *773. County clerk to publish nominations in newspaper.*
" *774. Candidate may decline ten days before election. In municipal election two days.*
" *775. Vacancies may be filled by further certificates.*
" *776. How questions submitted to electors may be certified.*
" *777. Errors how corrected.*

Sec. 765. Any convention or primary meeting held for the purpose of making nominations to public office, or the number of electors required in this Chapter, may nominate candidates for public office to be filled by election in the State. A convention or primary meeting within the meaning of this Chapter is an organized assemblage of electors or delegates representing a political party or principle.

Sec. 766. All nominations made by such convention or primary meeting must be certified as follows: The certificate of nomination, which must be in writing, must contain the name of each person nominated, his residence, his business, his business address, and the office for which he is named, and must designate in not more than five words, the party or principle which such convention or primary meeting represents, and it must be signed by the presiding officer and secretary of such convention or primary meeting, who must add to their signatures, their respective places of residence, their business and business addresses. Such certificates must be delivered by the secretary or the president of such convention or primary meeting, to the Secretary of the State or to the county clerk, as in this Chapter required.

Sec. 767. Certificates of nomination of candidates for offices to be filled by the electors of the entire State, or of any division or district greater than a county, must be filed with the Secretary of the State. Certificates of nomination for county, township and precinct officers must be filed with the clerks of the respective counties wherein the officers are to be elected. Certificates of nomination for municipal officers must be filed with the clerks of the respective municipal corporations wherein the officers are to be elected. The certificate of nomination of joint member of the House of Representatives must be filed in the offices of the county clerks of the counties to be represented by such joint member.

Sec. 768. Candidates for public office may be nominated otherwise than by convention or primary meeting in the manner following: A certificate of nomination, containing the name of a candidate for the office to be filled, with such information as is required to be given in certificates provided for in Section 766 of this Chapter, must be signed by electors residing within the State and district or political division in and for which the officer or officers are to be elected, in the following required numbers: The number of signatures must not be less than one hundred when the nomination is for an office to be filled by the electors of the entire State, and not less than ten when the election is for an office to be filled by the electors of a county, district or other division less than the State, and not less than five when the nomination is for an office to be filled by the electors of a township, precinct, or ward; but the signatures need not all be appended to one paper. Each elector signing a certificate shall add to his signature, his place of residence, his business, and his business address. Any such certificate may be filed as provided for in the next preceding section of this Chapter, in the same manner and with the same effect as a certificate of nomination made by a party convention or primary meeting.

Sec. 769. No certificate of nomination must contain the name of more than one candidate for each office to be filled. No person must join in nominating more than one person for each office to be filled, and no person must accept a nomination to more than one office.

Sec. 770. The Secretary of State and the clerks of the several counties and of the several municipal corporations must cause to be preserved in their respective offices for one year all certificates of nomination filed under the provisions of this Chapter. All such certificates must be open to public inspection under proper regulations to be made by the officers with whom the same are filed.

Sec. 771. Certificates of nominations to be filed with the Secretary of State, must be filed not more than sixty days and not less than thirty days before the day fixed by law for the election. Certificates of nomination herein directed to be filed with the county clerk must be filed not more than sixty days and not less than twenty days before the election; certificates of the nomination of candidates for municipal offices must be filed with the clerks of the respective municipal corporations not more than thirty days and not less than three days previous to the day of election; but the provisions of this section shall not be held to apply to nominations for special elections to fill vacancies.

Sec. 772. Not less than twenty nor more than thirty days before an election to fill any public office, the Secretary of State must certify to the county clerk of each county within which any of the electors may by law vote for candidates for such office, the name and description of each person nominated, as specified in the certificates of nomination filed with the Secretary of State.

Sec. 773. At least ten days before an election to fill any public office other than a municipal office, the county clerk of each county must cause to be published in one or more newspapers within the county the nominations to office, certified to him under the provisions of this Chapter. The county clerk must cause such publications to be made daily until the election, in counties where daily newspapers are published; but if there be no daily newspaper published within the county, two publications in each other newspaper published therein will be sufficient. One publication in each newspaper must be upon the last day upon which such newspaper is issued before election. In the case of municipal elections, such publication must be made in one or more newspapers and published within the municipal corporation in which the election is to be held at least three days before the election, the publication to be daily until election, where there are daily newspapers; but if there are no daily newspapers published within the municipal corporation, one publication in each other newspaper published therein is sufficient.

Sec. 774. Whenever any person nominated for public office, as in this Chapter provided, shall at least ten days before election, except in the case of municipal elections, in writing, signed by him, notify the officer with whom the certificate nominating him is by this Chapter to be filed, that he declines such nomination, such nomination shall be void. In municipal elections, such declination must be made at least two days before the election.

Sec. 775. If any person so nominated dies before the printing of the tickets, or decline the nomination as in this Chapter provided, or if any certificate of nomination is or becomes insufficient or inoperative from any cause, the vacancy or vacancies thus occasioned may be filled in the manner required for original nomination. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, such committee may, upon the occurring of such vacancies, proceed to fill the same. The chairman and secretary of such committee must thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. The certificate so made must be executed in the manner prescribed for the original certificate of nomination, and has the same force and effect as an original certificate of nomination. When such certificate is filed with the Secretary of State, he must, in certifying the nominations to the various county clerks, insert the name of the person who has thus been nominated to fill a vacancy in place of the name of the original nominee. And in the event he has already transmitted his certificate, he must forthwith certify to the clerks of the proper counties, the name and description of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents and the name of the person for whom such nominee is substituted.

Sec. 776. Whenever a proposed constitution or constitutional amendment, or other question is to be submitted to the people of the State for popular vote, the Secretary of State must duly, and not less than thirty days before election, certify the same to the clerk of each county in the State, and the clerk of each county must include the same in the publication provided for in Section 773 of this Chapter. Questions to be submitted to the people of a county or municipality must be advertised as provided for nominees for office by said Section 773.

Section 777. Whenever it appears by affidavit that an error or omission has occurred in the publication of the name or description of a candidate nominated for office, or in the printing of the ballots, the District Court of the county may, upon application of any elector, by order require the county or municipal clerk to correct such error, or to show cause why such error should not be corrected.

CHAPTER IX.

BALLOTS AND VOTING.

Section 785. Ballots, how printed and distributed. Expense a county charge.
" *786. County clerk to print ballots. An elector may vote for any person.*
" *787. Elections of school officers excepted. Municipal clerk to act in municipal elections.*
" *788. Pasters to be printed and distributed where a vacancy has been filled.*

Section 789. Ballots, how printed. What to contain. How questions are printed on the ballots.
“ *790. Number of ballots to be printed for each precinct.*
“ *791. Clerk to deliver ballots and stamps to judges of election. Stamp what to contain.*
“ *792. Booths or compartments to be provided for electors, how made.*
“ *793. Elector to cast his ballot without interference.*
“ *794. Expense a county charge.*
“ *795. Judges appointed to deliver to elector the official ballot.*
“ *796. Elector to mark the ballot by crossing and how to vote.*
“ *797. Only one person to occupy booth, and no longer than five minutes.*
“ *798. Spoiled ballot.*
“ *799. Elector who cannot read or write. Judges may assist.*
“ *800. Voting, when to commence and continue.*
“ *801. Manner of voting.*
“ *802. Announcement of voter's name.*
“ *803. Putting ballot in box.*
“ *804. Record that person has voted, how kept.*
“ *805. List of voters.*
“ *806. Grounds of challenge.*
“ *807. Proceedings on challenges for want of identity.*
“ *808. Same on challenges for having voted before.*
“ *809. Same on ground for conviction of crime.*
“ *810. Challenges, how determined.*
“ *811. Trial of challenges.*
“ *812. If person refuses to be sworn vote, to be rejected.*
“ *813. Proceedings upon determination of challenges.*
“ *814. List of challenges to be kept.*
“ *815. Persons not entitled to vote.*

Sec. 785. All ballots cast in elections for public officers within the State (except school district officers), must be printed and distributed at public expense as provided in this Chapter. The printing of ballots and cards of instruction for the elections in each county, and the delivery of the same to the election officers is a county charge, and the expense thereof must be paid in the same manner as the payment of other county expenses, but the expense of printing and delivering the ballots must, in the case of municipal elections, be a charge upon the city or town in which such election is held.

Sec. 786. Except as in this Chapter otherwise provided, it is the duty of the county clerk of each county to provide printed ballots for every election for public officers in which electors or any of the electors within the county participate, and to cause to be printed in the ballot the name of every candidate whose name has been certified to or filed with the county clerk in the manner provided for in this Chapter. Ballots other than those printed by the respective county clerks according to the provisions of this Chapter must not be cast or counted in any election. Any elector may write or paste on his ballot the name of any person for whom he desires to vote for any office, and must mark the same as provided in Section 796, and such vote must be counted the same as if printed upon the ballot and marked by the voter, and any voter may take with him into the polling place any printed or written memorandum or paper to assist him in marking or preparing his ballot, except as otherwise provided in this Title.

Sec. 787. In all municipal elections the city clerk, must perform all the duties prescribed for county clerks in this Title.

Sec. 788. When any vacancy occurs before election day and after the printing of the ballots, and any person is nominated according to the provisions of this Title to fill such vacancy, the officer whose duty it is to have the ballots printed and distributed, must thereupon have printed a requisite number of pasters containing the name of the new nominee and must mail them by registered letter to the judges of election in the various precincts interested in such election, and the judges of election whose duty it is made by the provisions of this Title to distribute the ballots, must affix such pasters over the name for which substitution is made, in the proper place on each ballot before it is given out to the elector.

Sec. 789. All ballots prepared under the provisions of this Chapter must be white in color and of a good quality of printing paper, and the names must be printed thereon in black ink. The ballots used in any one county must be uniform in size. Every ballot must contain the name of every candidate whose nomination for any office specified in the ballot has been certified or filed according to the provisions of this Title, and no other names. The names of candidates for each office must be arranged under the designation of the office in alphabetical order according to surnames, except that the names of electors of President and Vice President of the United States presented in one certificate of nomination, may be arranged in a separate group. Every ballot must also contain the name of the party or principle which the candidates represent, as contained in the certificates of nomination. Below the names of candidates for each office, there must be left a blank space large enough to contain as many written names of candidates as there are persons to be elected. There must be a margin on each side of at least half an inch wide, and a reasonable space between the names printed thereon, so that the voter may clearly indicate in the way hereinaffer provided, the candidate or candidates for whom he wishes to cast his ballot. Whenever the Secretary of State has duly certified to the county clerk any question to be submitted to the vote of the people, the county clerk must print on the regular ballots the question in such form as will enable the electors to vote upon the question so presented in the manner in this Title provided. The county clerk must also prepare the necessary ballots whenever any question is required by law to be submitted to the electors of any locality and not to the electors of the State generally, except that as to all questions submitted to the electors of a municipal corporation alone, the city clerk must provide the necessary ballots.

Sec. 790. The county clerk must provide for each election precinct in the county two hundred ballots for every fifty or fraction of fifty electors registered in the precinct. If there is no registry in the precinct, the county clerk must provide ballots to the number of two hundred for every fifty or fraction of fifty electors who voted at the last preceding election in the precinct. In municipal elections it is the duty of the city clerk to provide ballots as specified in this section.

Sec. 791. Before the opening of the polls, the county clerk, or the city clerk in the case of municipal elections, must deliver to the judges of election of each election precinct which is within the county (or within the municipality in case of municipal election) and in which the election is to be held, at the polling place of the precinct, the proper number of ballots as provided for in Section 790, of this Chapter. He must also deliver to said judges a rubber or other stamp with ink pad for the purpose of stamping or designating the official ballots, as hereinafter provided. Said stamp must contain the words, "Official Ballot," the name or number of the election precinct, the name of the county, the date of the election, and the name and official designation of the clerk who furnishes the ballots. The judge of election to whom the stamps and ballots are given pursuant to this section must be the same person who may be designated by the commissioners to post the notices required by Section 736, of this Code. But in case it be impracticable to deliver such stamps and ballots to such judge, then they may be delivered to some other one of the judges of election.

Sec. 792. All officers upon whom is imposed by law the duty of designating the polling places, must provide in each polling place designated by them, a sufficient number of places, booths or compartments, which must be furnished with such supplies and conveniencies as shall enable the elector conveniently to prepare his ballot for voting, and in which electors must mark their ballots, screened from observation, and a guard rail so constructed that only persons within such rail can approach within ten feet of the ballot boxes, or the places, booths, or compartments herein provided for. The number of such places, booths or compartments must not be less than one for every fifty electors or fraction thereof registered in the precinct. In precincts containing less than twenty-five registered voters the election may be conducted under the provisions of this Chapter without the preparation of such booths or compartments, as required in this section.

Sec. 793. No person other than electors engaged in receiving, preparing or depositing their ballots, or a person present for the purpose of challenging the vote an elector about to cast his ballot, is permitted to be within said rail, and in case of small precincts, where places, booths or compartments are not required, no person engaged in preparing their ballots shall in any way be interfered with by any person, unless it be some one authorized by the provisions of this Chapter to assist him in preparing his ballot.

Sec. 794. The expense of providing such places or compartments and guard rails is a public charge, and must be provided for in the same manner as the other election expenses.

Sec. 795. At any election the judges of election must designate two of their number whose duty it is to deliver ballots to the qualified electors. Before delivering any ballot to an elector the said judges must print on the back and near the top of the ballot, with the rubber or other stamp provided for the purpose, the designation, "Official Ballot," and the other words on the stamp as provided for in Section 791, of this Chapter. Each qualified elector must be entitled to receive from the said judges one ballot.

Sec. 796. On receipt of his ballot, the elector must forthwith, without leaving the polling place and within the guard rail privately and alone retire to one of the places, booths, or compartments, if such are provided, and prepare his ballot. He must prepare his ballot by making a cross before or after the name of the person or persons for whom he intends to vote, for example: X. In case of a ballot containing a constitutional amendment, or other question to be submitted to the vote of the people, by marking an X opposite the answer to the question or amendment submitted. The elector may write in the blank spaces or paste over another name the name of any person for whom he wishes to vote. In marking a ballot, any elector is at liberty to use or copy any unofficial sample ballot, which he may choose to mark or to have had marked in advance of entering the compartment or booth; but no elector is at liberty to use or bring into the polling place any unofficial sample ballot printed in the exact style, manner, width or character of paper of the official ballot. After preparing his ballot the elector must fold it so that the face of the ballot will be concealed, and so that the indorsement stamped thereon may be seen. He must then vote forthwith and before leaving the polling place.

Sec. 797. No more than one person must be allowed to occupy any one booth at one time, and no person must remain in or occupy a booth longer than may be necessary to prepare his ballot, and in no event longer than five minutes, if the other booths or compartments are occupied.

Sec. 798. Any elector who by accident or mistake spoils his ballot, may on returning said spoiled ballot, receive another in place thereof.

Sec. 799. Any elector who declares to the judges of election, or when it appears to the judges of election that he can not read or that by blindness or other physical disability he is unable to mark his ballot, must upon request, receive the assistance of one or two of the judges in the marking thereof, and such judge or judges must certify on the outside thereof that it was so marked with his or their assistance, and must thereafter give no information regarding the same. The judges must require such declaration of disability to be made by the elector under oath before them, and they are hereby authorized to administer the same. No elector other than one who may, because of his inability to read or physical disability, be unable to mark his ballot, must divulge to any one within the polling place the name of any candidate for whom he intends to vote, or ask, or receive the assistance of any person within the polling place in the preparation of his ballot.

Sec. 800. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain open.

Sec. 801. The person offering to vote must hand his ballot to the judges, and announce his name, and in incorporated cities and towns any such person must also give the name of the street, avenue or location of his residence, and the number thereof, if it be numbered, or such clear and definite description of the place of such residence as shall definitely fix the same.

Sec. 802. The judges must receive the ballot, and before depositing it in the ballot box must, in an audible tone of voice, announce the name, and in incorporated towns and cities the judges must also announce the residence of the person voting and the same must be recorded on each poll book.

Sec. 803. If the name be found on the official register in use at the precinct where the vote is offered, or that the person offering to vote produce and surrender a proper registry certificate, and the vote is not rejected upon a challenge taken, the judges must immediately and publicly, in the presence of all the judges, place the ballot, without opening or examining the same, in theballot box.

Sec. 804. When the ballot has been placed in the box, one of the judges must write the word "Voted" opposite the number of the person on the check list for the precinct.

Sec. 805. Each clerk must keep a list of persons voting, and the name of each person who votes must be entered thereon and numbered in the order voting. Such list is known as the poll list and forms a part of the poll book of the precinct.

Sec. 806. Any person offering to vote may be orally challenged by any elector of the county upon either or all of the following grounds:

1. That he is not the person whose name appears on the register or check list.
2. That he is an idiot or insane person.
3. That he has voted before that day.
4. That he has been convicted of a felony and not pardoned.

Sec. 807. If the challenge is on the ground that he is not the person whose name appears on the official register, the judges must tender him the following oath:

"You do swear (or affirm) that you are the person whose name is entered on the official register and check list."

Sec. 808. If the challenge is on the ground that the person challenged has voted before that day, the judges must tender to the person challenged this oath:

"You do swear (or affirm) that you have not before voted this day."

Sec. 809. If the challenge is on the ground that the person challenged has been convicted of a felony, the judges must tender him the following oath:

"You do swear (or affirm) that you have not been convicted of a felony."

Sec. 810. Challenges upon the grounds either:

1. That the person challenged is not the person whose name appears on the official register; or

That the person has before voted that day, are determined in favor of the person challenged by his taking the oath tendered.

2. A challenge upon the ground that the person challenged has been convicted of a felony and not pardoned must be determined in favor of the person challenged on his taking the oath tendered, unless the fact of conviction be proved by the production of an authenticated copy of the record; or by the oral testimony of two witnesses. If the person challenged asserts that he has been convicted of a felony and pardoned therefor, he must exhibit his pardon or a proper certified copy thereof to the judges, and if the pardon be found sufficient, the judges must tender to him the following oath: "You do swear that you have not been convicted of any felony other than that for which a pardon is now exhibited." Upon taking this oath the person challenged must be permitted to vote if otherwise qualified, unless a conviction of some other felony be proved, as in this section provided for the proof of a conviction.

Sec. 811. Challenges for causes other than those specified in the preceding section must be tried and determined by the judges of election at the time of the challenge.

Sec. 812. If any person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the questions touching the matter of residence, he must not be allowed to vote.

Sec. 813. If the challenge is determined against the person offering to vote, the ballot offered must, without examination, be destroyed by the judges in the presence of the person offering the same; if determined in his favor, the ballot must be deposited in the ballot box.

Sec. 814. The judges must cause each of the clerks to keep a list showing—

1. The names of all persons challenged.
2. The grounds of such challenges.
3. The determination of the judges upon the challenge.

Sec. 815. No person is entitled to vote at any election mentioned in this Title, except as otherwise provided in this Title, unless, unless his name on the day of the election appear in the "check lists," on the copy of the official register furnished by the registry agents to the judges of election at the election precinct at which he offers to vote, or unless he produces and surrenders a county registry certificate or a State registry certificate, as provided in Sections 689 and 702, of this Code, and the fact that his name so appears in the "check lists" and in the copy of the official register in the possession of the judges of election is *prima facie* evidence of his right to vote.

CHAPTER X.

CANVASSING AND RETURNING THE VOTE.

Section 825. Canvass to be public and without adjournment.
" 826. Mode of canvassing.
" 827. Where ballots are in excess of names on check list.
" 828. What ballots must be counted. What not.
" 829. Ascertaining the number of votes cast and persons voted for.
" 830. Tickets to be strung and enclosed in sealed envelopes.
" 831. Rejected ballots.
" 832. Return list.
" 833. Certain papers to be sealed up.
" 834. One of the judges to keep certain papers and the ballot box.
" 835. Custody of returns and ballots.
" 836. Delivery to county clerk.
" 837. Clerk to keep ballots unopened.

Section 838. When package containing ballots may be destroyed; when opened.
" *839. Package to be produced before county commissioners.*
" *840. Clerk to file in his office book, paper, etc.*

Sec. 825. As soon as the polls are closed the judges must immediately proceed to canvass the votes given at such election. The canvass must be public in the presence of bystanders, and must be continued without adjournment until completed and the result thereof is publicly declared.

Sec. 826. The canvass must commence by a comparison of the poll lists from the commencement, and the correction of any mistakes that may be found therein, until they are found to agree. The judges must then take out of the box the ballots unopened except to ascertain whether each ballot is single, and count the same to determine whether the number of ballots correspond with the number of names on the poll lists. If two or more ballots are found so folded together as to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed, and if on comparing the count with the poll lists and further considering the appearance of such ballots, a majority of the judges are of the opinion that the ballots thus folded together were voted by one elector, they must be rejected, otherwise they must be counted.

Sec. 827. If the ballots then are found to exceed in number the whole number of names on the poll list, they must be placed in the box (after being purged in the manner above stated), and one of the judges must, publicly, and without looking in the box, draw therefrom singly and destroy unopened so many ballots as are equal to such excess. And the judges must make a record on the poll list of the number of ballots so destroyed.

Sec. 828. In the canvass of the votes any ballot which is not indorsed, as provided in this Title, by the official stamp, is void and must not be counted, and any ballot or parts of a ballot from which it is impossible to determine the elector's choice, is void and must not be counted; if part of a ballot is sufficiently plain to gather therefrom the elector's intention, it is the duty of the judges of election to count such part.

Sec. 829. The ballots and poll lists agreeing or being made to agree, the judges must then proceed to count and ascertain the number of votes cast for each person voted for. In making such count the ballots must be opened singly by one of the judges, and the contents thereof, while exposed to the view of the other judges, must be distinctly read aloud by the judge who opens the ballot. As the ballots are read each clerk must write at full length on a sheet to be known as a tally sheet, the name of every person voted for and of the office for which he received votes, and keep by tallies on such sheet the number of votes for each person.

The tally sheets must then be compared and their correctness ascertained, and the clerks must, under the supervision of the judges, immediately thereafter set down, at length and in their proper places in the poll books, the names of all persons voted for, the offices for which they respectively received votes, and the total number of votes received by each person as shown by the tally sheets. No ballot or vote rejected by the judges must be included in the count provided for in this section.

Sec. 830. The ballots, as soon as read, or rejected for illegality, must be strung upon a string by one of the judges, and must not thereafter be examined by any person, but must, as soon as all legal ballots are counted, be carefully sealed in a strong envelope, each member of the judges writing his name across the seal.

Sec. 831. Any ballot rejected for illegality must be marked by the judges by writing across the face thereof, "Rejected on the ground of———," filling the blank with a brief statement of the reasons for the rejection, which statement must be dated and signed by a majority of the judges.

Sec. 832. As soon as all the votes are counted and the ballots sealed up, the poll books must be signed and certified to by the judges and clerks of election substantially as in the form in Section No. 758, of this Code.

Sec. 833. The judges must, before they adjourn, inclose in a cover and seal up and direct to the county clerk the Check List, all certificates of registration received by them, one of the lists of the persons challenged, one of the poll books, one of the tally sheets, and the official oaths taken by the judges and clerks of election. Each of the judges must write his name across the seal of the envolope or cover.

Sec. 834. The judges must select one of their number to retain, open to the inspection of all electors, for at least six months, the other list of persons challenged, the other tally sheet and poll book. The judge so selected must also retain the ballot box.

Sec. 835. The sealed packages containing the check lists, certificates of registration, poll book, tally sheet, oaths of election officers, and ballots, must, before the judges adjourn, be delivered to one of their number, to be determined by lot, unless otherwise agreed upon.

Sec. 836. The judges to whom such packages are delivered must, within twenty-four hours, deliver them without their having been opened, to the county clerk, or convey the same, unopened, to the postoffice nearest the house in which the election for such precinct was held, and register and mail the same, duly directed to the said clerk.

Sec. 837. Upon the receipt of the packages the clerk must file the one containing ballots, and must keep it unopened and unaltered for twelve months, after which time if there is not a contest commenced in some tribunal having jurisdiction about such election, he must burn the package without opening or examining its contents.

Sec. 838. If within twelve months there is such a contest commenced, he must keep the package unopened and unaltered until it is finally determined, when he must, as provided in the preceding section, destroy it, unless such package is by virtue of an order of the tribunal in which the contest is pending, brought and opened before it, to the end that evidence may be had of its contents, in which event the package and contents are in the custody of such tribunal.

Sec. 839. The other package the clerk must produce before the Board of Commissioners, when it is in session for the purpose of canvassing returns.

Sec. 840. As soon as the returns are canvassed, the clerk must file in his office, the poll book, lists, and the papers produced before the board from the package mentioned in the next preceding section.

CHAPTER XI.

CANVASS OF RETURNS. DECLARATION OF RESULT. COMMISSIONS AND CERTIFICATES OF ELECTION.

Section 855. Meeting of County Commissioners to canvass returns.
“ *856. In case of absence certain county officers to act.*
“ *857. Canvass to be postponed when.*
“ *858. Canvass to be public.*
“ *859. Statement of the result to be entered of record.*
“ *860. Declaration of result.*
“ *861. Certificates issued by the clerk.*
“ *862. Returns for joint members of House of Representatives.*
“ *863. How transmitted.*
“ *864. Duty of clerk receiving such returns.*
“ *865. State returns how made.*
“ *866. How transmitted.*
“ *867. State canvassers who comprise, when to meet.*
“ *868. Messenger may be sent for returns. His duty and compensation.*
“ *869. Governor to issue commission.*
“ *870. Tie vote on State officers.*
“ *871. Tie vote on judicial officers.*
“ *872. Tie vote on Representative in Congress.*
“ *873. Defect in form of returns to be disregarded.*
“ *874. Duty of Secretary of State to print election laws.*
“ *875. Penalties.*

Sec. 855. The Board of Commissioners of each county is ex officio a Board of County Canvassers for the county, and must meet as a Board of County Canvassers at the usual place of meeting of the county commissioners within ten days after each election at twelve o'clock noon, to canvass the returns.

Sec. 856. If at the time and place appointed for such meeting one or more of the county commissioners should not attend, the place of the absentees must be supplied by one or more of the following county officers, whose duty it is to act in the order named, to-wit: the treasurer, the assessor, the sheriff, so that the Board of County Canvassers shall always consist of three acting members. The clerk of the Board of County Commissioners is the clerk of the Board of County Canvassers.

Sec. 857. If at the time of meeting, the returns from each precinct in the county in which polls were opened have been received, the Board of County Canvassers must then and there proceed to canvass the returns; but if all the returns have not been received the canvass must be postponed from day to day until all of the returns are received, or until seven postponements have been had. If the returns from any election precinct have not been received by the county clerk within seven days after any election, it is his duty forthwith to send a messenger to the judges for the missing returns, who must procure such returns from the judges, or any of them, and return the same to the county clerk. Such messenger must be paid out of the county treasury, 15 cents per mile in going and coming. If it appears to the board, by evidence, that the polls were not opened in any precinct, and no returns have been received therefrom, the board must certify to the same, and file such certificate with the county clerk, with the evidence, if any, who must enter the same in the minutes and in the statement mentioned in Section 859.

Sec. 858. The canvass must be made in public by opening the returns and determining therefrom the vote of such county or precinct for each person voted for, and for and against each proposition voted upon at such election, and declaring the result thereof. In canvassing, no returns must be rejected if it can be ascertained therefrom the number of votes cast for each person. The fact that the returns do not show who administered the oath to the judges or clerks of election, or a failure to fill out all the certificates in the poll books, or to do or perform any other act in making up the returns, that is not essential to determine for whom the votes were cast, is not such an irregularity as to entitle the board to reject the same, but they must be canvassed as other returns are.

Sec. 859. The clerk of the board must, as soon as the result is declared, enter on the records of such board a statement of such result, which statement must show:

1. The whole number of votes cast in the county.

2. The names of the persons voted for, and the propositions voted upon.

3. The office to fill which each person was voted for.

4. The number of votes given at each precinct to each of such persons, and for and against each of such propositions.

5. The number of votes given in the county to each of such persons, and for and against each of such propositions.

Sec. 860. The board must declare elected the person having the highest number of votes given for each office to be filled by the votes of a single county or subdivision thereof.

Sec. 861. The clerk of the Board of County Commissioners must immediately make out and deliver to such person (except to the person elected district judge) a certificate of election signed by him and authenticated with the seal of the Board of County Commissioners.

Sec. 862. When there are members of the House of Representatives voted for, by the electors of a district composed of two or more counties, each of the clerks of the counties composing such district, immediately after making out the statement specified in Section 859, must make a certified abstract of so much thereof as relates to the election of such officers.

Sec. 863. The clerk must seal up such abstract, indorse it "Election Returns," and without delay transmit the same by mail to the clerk of the board of commissioners of the county which stands first in alphabetical arrangement in the list of counties composing such district.

Sec. 864. The clerk to whom the returns of a district are made, must, on the twentieth day after such election, or sooner, if returns from all the counties in the district have been received, open in public such returns, and from them and the statement of the vote for such officers in his own county:

1. Make a statement of the vote of the district for such officers, and file the same, together with the returns, in his office.

2. Transmit a certified copy of such statement to the Secretary of State.

3. Make out and deliver or transmit by mail to the persons elected a certificate of election (unless it is by law otherwise provided).

Sec. 865. When there has been a general or special election for officers voted for by the electors of the State at large or for judicial officers (except justices of the peace), each clerk of the Board of Canvassers, so soon as the statement of the vote of his county is made out and entered upon the records of the Board of County Commissioners, must make a certified abstract of so much thereof as relates to the votes given for persons for said offices to be filled at such election.

Sec. 866. The clerk must seal up such abstract, indorse it "Election Returns," and without delay transmit it by mail registered to the Secretary of State.

Sec. 867. On the first Monday of December after the day of election, at twelve o'clock noon, the State Auditor, State Treasurer, and Attorney General, who constitute a Board of State Canvassers, must meet in the office of the Secretary of State and compute and determine the vote, and the Secretary of State, who is secretary of said board, must make out and file in his office a statement thereof and transmit a copy of such statement to the Governor.

Sec. 868. If the returns from all the counties have not been received on the fifth day before the day designated for the meeting of the Board of State Canvassers, the Secretary of State must forthwith send a messenger to the clerk of the Board of County Canvassers of the delinquent county, and such clerk must furnish the messenger with a certified copy of the statement mentioned in Section 859. The person appointed is entitled to receive as compensation five dollars per day for the time necessarily consumed in such service and the traveling expenses necessarily incurred. His account therefor, certified by the Secretary of State, after being allowed by the Board of Examiners, must be paid out of the general fund of the State treasury.

Sec. 869. Upon receipt of such copy mentioned in Section 867, the Governor must issue commissions to the persons who from it appear to have received the highest number of votes for offices to be filled at such election. In case a Governor has been elected to succeed himself, the Secretary of State must issue the commission.

Sec. 870. In case of a tie vote for State officers as specified in Section 661, of this Code, it is the duty of the Secretary of State to transmit to the Legislative Assembly, at its next regular session, a certified copy of the statement showing the vote cast for the two or more persons having an equal and the highest number of votes for any State office.

Sec. 871. In case any two or more persons have an equal and highest number of votes for justice of the Supreme Court, or judge of a District Court, the Secretary of State must transmit to the Governor a certified statement showing the vote cast for such person, and thereupon the Governor must appoint an eligible person to hold the office, as in case of other vacancies in such offices.

Sec. 872. In case of a failure by reason of a tie vote or otherwise, to elect a representative in Congress, the Secretary of State must transmit to the Governor a certified statement showing the vote cast for such persons voted for, and in case of a failure to elect, by reason of a tie vote or otherwise, the Governor must order a special election.

Sec. 873. No declaration of the result, commission or certificate, must be withheld on account of any defect or informality in the return of any election, if it can, with reasonable certainty, be ascertained from such return what office is intended and who is elected thereto.

Sec. 874. It is the duty of the Secretary of State to cause to be published, in pamphlet form, a sufficient number of copies of this Title, and such other provisions of law as bear upon the subject of elections, and to transmit the proper number to each county clerk, whose duty it is to furnish each election officer in his county with one of such copies.

Sec. 875. The penalties for the violation of any of the provisions of this Title are prescribed in Title IV., Part I., of the Penal Code.

CHAPTER XII.

ELECTION FOR ELECTORS OF PRESIDENT AND VICE PRESIDENT.

Section 880. Electors when chosen.
" *881. Returns how made.*
" *882. Duty of Governor.*
" *883. Meeting of electors.*
" *884. Vacancies how supplied.*
" *885. Voting of electors and return.*
" *886. Separate ballots for President and Vice President.*
" *887. Must make lists of persons voted for.*
" *888. Result to be transmitted as provided by law of the United States.*
" *889. Compensation of electors.*
" *890. How audited and paid.*

Sec. 880. At the general election in November preceding the time fixed by the law of the United States for the choice of President and Vice President of the United States, there must be elected as many electors of President and Vice President as this State is entitled to appoint.

Sec. 881. The votes for electors of President and Vice President must be canvassed, certified to, and returned, in the same manner as the votes for State officers.

Sec. 882. The Governor must transmit to each of the electors a certificate of election, and on or before the day of their meeting deliver to each of the electors a list of the names of electors, and must do all other things required of him in the premises by any Act of Congress in force at the time.

Sec. 883. The electors chosen must assemble at the seat of government on the second Monday in January next after their election, at two o'clock in the afternoon.

Sec. 884. In case of the death or absence of any elector chosen, or in case the number of electors from any cause be deficient, the electors then present must elect, from the citizens of the State, so many persons as will supply such deficiency.

Sec. 885. The electors when convened must vote by ballot for one person for President and one for Vice President, of the United States, one of whom at least is not an inhabitant of this State.

Sec. 886. They must name in their ballots the persons voted for as President, and in distinct ballots the persous voted for as Vice President.

Sec. 887. They must make distinct lists of all persons voted for as President and of all persons voted for as Vice President, and of the number of votes given for each.

Sec. 888. They must certify, seal up, and transmit such lists in the manner prescribed by the Constitution and laws of the United States.

Sec. 889. Electors receive the same pay and mileage as is allowed to members of the Legislative Assembly.

Sec. 890. Their accounts therefor certified by the Secretary of State, must be audited by the State Auditor, who must draw his warrants for the same on the Treasurer, payable out of the general fund.

CHAPTER XIII.

ELECTIONS FOR MEMBERS OF CONGRESS.

Article I. Election for Senators.
Article II. Election for Representatives.

ARTICLE I.

ELECTION FOR SENATORS.

Section 900. Election for full term.
" 901. Election to fill vacancy.

Sec. 900. Elections for Senators in Congress for full terms must be held at the regular session of the Legislative Assembly next preceding the commencement of the term to be filled.

Sec. 901. Elections to fill a vacancy in the term of a United States Senator must be held at the session of the Legislative Assembly next succeeding the occurrence of such vacancy, or if the Legislative Assembly be in session at the time of the occurrence of the vacancy, then at such session.

ARTICLE II.

ELECTIONS FOR REPRESENTATIVES.

Section 910. When held.
" 911. Returns, how made.
" 912. Certificates issued by Governor.

Sec. 910. At the general election to be held in the year eighteen hundred and ninety-two and at the general election every two years thereafter, there must be elected for each Congressional district one representative to the Congress of the United States.

Sec. 911. The vote for Representative in Congress must be canvassed, certified to and transmitted in the same manner as the vote for State officers.

Sec. 912. The Governor must, upon the receipt of the statement mentioned in Section 867, transmit to the person elected a certificate of his election, sealed with the great seal and attested by the Secretary of State.

TITLE III.

EDUCATION.

Chapter I. State Board of Education.
" *II. State University of Montana.*
" *III. School of Mines of Montana.*
" *IV. Agricultural College of Montana.*
" *V. State Normal School.*
" *VI. Public Schools.*

CHAPTER I.

STATE BOARD OF EDUCATION.

Section 930. State board, how constituted.
" *931. How appointed.*
" *932. Officers of board.*
" *933. Quorum.*
" *934. When to meet.*
" *935. Powers of the board.*
" *936. Life diploma, fee for.*
" *937. Compensation.*

Sec. 930. The State Board of Education consists of eleven members, the Governor, State Superintendent of Public Instruction, and Attorney General, being members ex officio, the other eight members thereof must be appointed by the Governor, subject to the confirmation of the Senate.

Sec. 931. The first eight members of the board appointed by the Governor must be divided into four classes; those of the first class hold office for two years; of the second class, four years; of the third class, six years, and of the fourth class, eight years. After the first appointment the Governor must appoint numbers two every second year.

Sec. 932. The Governor is the president, and the Superintendent of Public Instruction the secretary of the board.

Sec. 933. A concurrence of a majority of all the members is necessary to the validity of any act of the board.

Sec. 934. The board meets at the call of the president, and not less than twice in each year.

Sec. 935. The powers and duties of the board are as follows:

1. The control and supervision of the State University and the various other State educational institutions.

2. To adopt rules and regulations, not inconsistent with the laws of this State, for its own government, and for the government of the public schools and district school libraries.

3. To establish rules for the examination of teachers.

4. To provide a uniform system of text books to be used in the public schools and high schools, and to grade all schools.

5. To recommend a list of books for district school libraries.

6. To grant:

    1. Educational diplomas, valid for six years; and
    2. Life diplomas.

7. To revoke for immoral conduct, or evident unfitness for teaching, life diplomas, and educational diplomas, and county certificates.

8. To have done by the persons having the management of the State printing, any printing required by it.

9. To adopt and use in the authentication of its acts, an official seal.

10. To keep a record of its proceedings.

11. State educational diplomas must be issued to such persons only as have held a first grade county certificate for at least one year, and furnish satisfactory evidence of having been successfully engaged in teaching for at least five years. Every application for an educational diploma must be accompanied by a certificate of the county superintendent of schools recommending the same.

12. Life diplomas must be issued upon all and the same conditions as educational diplomas, except that the applicant must furnish satisfactory evidence of having been successfully engaged in teaching for at least ten years.

Sec. 936. Every person receiving a life diploma must pay to the board three dollars to defray the expenses of issuing such diploma.

Sec. 937. The actual traveling expenses of the members incurred in attending the meetings of the board, must be allowed by the State Board of Examiners, and paid out of the general fund in the State treasury.

CHAPTER II.

UNIVERSITY OF MONTANA.

Section 940. University of Montana established.
" 941. Control and supervision of same.
" 942. No person to use the name of the University of Montana.

Sec. 940. The University of Montana is established and located at ———, and has for its object, instruction and education in all the departments of science, literature, art, industrial and professional pursuits.

Sec. 941. The control and supervision of the State University is vested in the State Board of Education, which must appoint a president and faculty and other necessary officers, agents, employes, prescribe their powers and duties, and establish for the government of the University, and for the instruction given therein, such rules not inconsistent with the laws of the State, as may be necessary.

Sec. 942. The State has the exclusive right to the use of the name "University of Montana," and no other institution of learning or corporation must use the name of "University of Montana," or "Montana University" or like name, and the Attorney General is required to bring an action in the name of the State against any person, association or corporation using such or like name, for the purpose of dissolving the corporation, or recovering a sum not exceeding five hundred dollars, nor less than one hundred dollars, which is hereby made the penalty for a violation of the provisions of this section from the person or association using such name.

CHAPTER III.

SCHOOL OF MINES.

Section 970. School of Mines established.
" 971. Control and management.

Sec. 970. A School of Mines of Montana is hereby established and located at ———, and has for its object instruction and education in chemistry, metalurgy, mineralogy, geology, mining, milling, engineering, mathematics, mechanics, drawing, the laws of the United States, and of the State in reference to mining and the rights and duties of citizens in relation thereto. Such School of Mines may be connected with the State University under such regulations as the State Board of Education may prescribe.

Sec. 971. The control and supervision of such school is vested in the State Board of Education, which may prescribe all necessary rules therefor.

CHAPTER IV.

AGRICULTURAL COLLEGE OF MONTANA.

Section 990. Agricultural College established.
" 991. Control and management.

Sec. 990. The Agricultural College of Montana is established and located at ———, and has for its object instruction and education in the English language, literature and mathematics, civil and mechanical engineering, agricultural chemistry, animal and vegetable anatomy and physiology, the veterinary art, entomology, geology, and such other natural sciences as may be prescribed by the State Board of Education, political, rural, and household economy, agricultural, horticultural, moral philosophy, history, book-keeping, and especially the application of science and the mechanical arts to practical agriculture in the field.

Such Agricultural College may be connected with the State University, under such regulations as the State Board of Education may prescribe.

Sec. 991. The control and supervision of such college is vested in the State Board of Education, which may prescribe all rules therefor.

CHAPTER V.

STATE NORMAL SCHOOL.

Section 1010. State Normal School established.
" 1011. Control and management.

Sec. 1010. A State Normal School is established and located at ———, and has for its object instruction and education, the art of teaching in all of its branches that pertain to a good public school education in the mechanical arts and in husbandry, and the fundamental laws of the United States and of the State. Such Normal School may be connected with the State University, under such regulations as the State Board of Education may prescribe.

Sec. 1011. The control and supervision of such school is vested in the State Board of Education, which may prescribe all necessary rules therefor.

CHAPTER VI.

PUBLIC SCHOOLS.

Article I. Superintendent of Public Instruction.
" II. County school superintendent.
" III. Teachers' institutes.
" IV. School districts.
" V. Election for school trustees.
" VI. School trustees.
" VII. District census marshals.
" VIII. Clerks of school districts.
" IX. Schools.
" X. Pupils.
" XI. Teachers.
" XII. District libraries.

Article XIII. High schools.
" *XIV. Examination and certificates.*
" *XV. County school tax.*
" *XVI. District school tax.*
" *XVII. Provisions relating to school funds, taxes, and bonds.*
" *XVIII. School text books.*
" *XIX. Miscellaneous provisions.*

ARTICLE I.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

Section 1030. Duty of superintendent.
" *1031. Report.*

Sec. 1030. It is the duty of the Superintendent of Public Instruction:

1. To superintend the public schools in this State.

2. To report to the Governor on or before the first Monday of November preceding each session of the Legislature, a statement of the condition of all the educational institutions supported by the State, and of the public schools, and to make a semi-annual report as prescribed in Section 19, Article VII., of the Constitution.

3. To accompany his biennial report with tabular statements showing the number of school children in the State; the number attending public schools, and the average attendance; the number attending private schools and the number not attending schools; the amount of State school fund apportioned and sources from which derived; the amount raised by county and district taxes, or from other sources of revenue, for school purposes, and the amount expended for salaries of teachers and for building school houses, and for district school libraries.

4. To apportion the State school fund, and furnish the State Auditor, State Board of Examiners, and each county treasurer and county superintendent with an abstract of such apportionment.

5. To draw his order on the State Auditor in favor of each county treasurer for school moneys apportioned to the county.

6. To prepare, under the supervision of the State Board of Education, have printed, and furnish all officers charged with the administration of the laws relating to public schools, and to teachers, such blank forms and books as may be necessary to the discharge of their duties, including blank teachers' certificates to be used by county superintendents of common schools.

7. To have the law relating to public schools printed in pamphlet form, and annex thereto forms for making reports and conducting school business, the course of study, rules and regulations, and a list of library books.

8. To supply school officers and teachers, school libraries, and State libraries, with one copy each of the pamphlets mentioned in the preceding subdivisions.

9. To visit the schools in the different counties, and inquire into their condition, and to be present at the teachers' institutes of each county.

10. To authenticate with his official seal all drafts or orders drawn on him, and all papers and writings issued from his office.

11. To perform all acts and duties prescribed by the State Board of Education not inconsistent with the Constitution and laws of this State.

Sec. 1031. The Superintendent of Public Instruction must report to the State Auditor, on or before the tenth day of August of each year, the total number of children in the State between the ages of six and twenty-one years, as shown by the latest reports of the county superintendents of common schools on file in his office.

ARTICLE II.

COUNTY SUPERINTENDENT OF COMMON SCHOOLS.

Section 1040. Duties.
" *1041. Penalty for not reporting.*
" *1042. Duty to maintain a school.*
" *1043. Repairing buildings.*
" *1044. Reports when and how made.*
" *1045. Boundaries of school districts.*

Sec. 1040. It is the duty of the county superintendent of common schools:

1. To superintend the schools of his county.

2. To apportion the school moneys of each school district quarterly, and for that purpose he may require of the county treasurer a report of the amount of all school moneys on hand to the credit of the several school funds of the county not already apportioned, and it is hereby made the duty of the treasurer to furnish such report when so required, and whenever, at the close of the school year, any money has accumulated to the credit of a school district, by reason of a large census roll and small attendance in excess of a reasonable amount required to maintain the schools six months in such district, the superintendent must apportion the same as other county school funds are apportioned. If in any school district there is an average attendance for three months of only five pupils or less, such district lapses and the moneys in the treasury of the county belonging thereto must be apportioned by the superintendent among the other districts of his county in proportion to the number of census children between six and twenty-one in such district.

3. On the order of the school trustees, to draw his warrant upon the county treasurer for all necessary expenses against the school fund of the district. The warrant must be drawn in the order in which the orders therefor are filed in his office. Each warrant must specify the purpose for which it is drawn, and no warrant must be drawn unless the money is in the fund to pay it; and no warrant must be drawn upon the order of the trustees against the county fund of any district, except for teachers' salaries, unless such order is accompanied by an itemized bill showing the separate items, and the price of each, in payment for which the order is drawn; nor must any warrant for teachers' salaries be drawn unless the order states the monthly salary of the teacher, and names the months for which such salary is due. Upon receipt of such warrant the treasurer must pay the same from the proper funds.

4. To keep open to the inspection of the public a register of warrants, showing the fund upon which the warrant has been drawn, the number thereof, in whose favor, and for what service drawn, and also a receipt from the person to whom the warrant was delivered.

5. To visit and examine each school in his county at least once in each year.

6. To preside over teachers' institutes held in his county, and to secure the attendance thereat of lecturers competent to instruct in the art of teaching; and to report to the State Board of Education the names of all teachers in the county who fail to attend regularly the sessions of the institute: to enforce the course of study, the use of text books, and the rules and regulations for the examination of teachers prescribed by the proper authority.

7. To distribute all laws, reports, circulars, instructions, and blanks which he may receive for the use of school officers.

8. To keep in his office the reports of the Superintendent of Public Instruction.

9. To keep a record of his official acts.

10. To appoint trustees to fill all vacancies created by failure to elect or otherwise and for new districts to hold until the next annual election.

11. To make reports when directed by the Superintendent of Public Instruction, showing such matters relating to the public schools in his county as may be required of him.

12. To preserve carefully all reports of school officers and teachers, and at the close of his official term, deliver to his successors all records, books, documents, and papers belonging to the office, taking a receipt for the same, which must be filed in the office of the county clerk.

13. The county superintendent must, unless otherwise provided by law, in the month of May in each year, grade each school; and a record thereof must be made in a book, to be kept by the county superintendent in his office for such pur-

pose. And no teacher holding a certificate below the grade of said school must be employed to teach the same.

Sec. 1041. If he fails to make full and correct reports, as required under the provisions of Subdivision 11, Section 1040, at the time fixed by the Superintendent of Public Instruction, he forfeits one hundred dollars of his salary; and the county treasurer, upon receiving from the Superintendent of Public Instruction notice of such failure, must deduct the amount forfeited from his salary, and his salary for the last quarter must not be paid until he presents to the county treasurer a receipt from the Superintendent of Public Instruction for such report.

Sec. 1042. He must, when there is sufficient money in the fund of any school district to maintain a free school therein for three months, if the trustees fail to have such a school kept, appoint a teacher and open and keep such school, and may draw his warrant upon the county treasurer for the same.

Sec. 1043. He may, in his discretion require the trustees of any district to repair the school buildings or property, or to abate any nuisance in or about the premises, if such repairs or abatement can be done for a sum not exceeding fifty dollars, and there is a sufficient amount of money in the treasury to the credit of the district. He may, also, in all cases, require the trustees to provide suitable outhouses; and if the trustees neglect to make such provision, he may cause it to be done, and pay for it on his warrant upon the county treasurer.

Sec. 1044. Each county superintendent must, on or before the tenth day of August in each year, report to the Superintendent of Public Instruction, and to the Board of County Commissioners of their respective counties, the number of children in their counties between the ages of six and twenty-one years, as appears from the latest returns of the census marshals on file in their office, and his salary for the last quarter must not be paid until he presents to the county treasurer receipts from the Board of County Commissioners and the Superintendent of Public Instruction for such reports.

Sec. 1045. It is the duty of every county superintendent to inquire and ascertain whether the boundaries of the school districts in his county are definitely and plainly described in the records of the Board of County Commissioners and to keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting, or incorrectly described, he must, upon the order of the board, change, harmonize and describe them and make a report of such action to the Board of County Commissioners, which being ratified by them, the boundaries and descriptions so made, must be the legal boundaries and descriptions of the districts of that county. The county superintendent, if he deem it necessary for the guidance of school census marshals, may order the description of the district boundaries printed in pamphlet form, and pay for the same out of the county school fund.

ARTICLE III.

TEACHERS' INSTITUTES.

Section 1050. To be held annually in certain counties.
" *1051. When held in other counties.*
" *1052. Length of sessions.*
" *1053. Pay of teachers in attendance.*
" *1054. Expenses of institute, how paid.*

Sec. 1050. Whenever the number of school districts in any county is five or more, the county superintendent of schools must hold at least one teachers' institute in each year; and every teacher employed in a public school in the county and within fifty miles of the place of holding such institute must attend the same and participate in its proceedings.

Sec. 1051. Each session of the institute must continue not less than two nor more than five days.

Sec. 1052. When the institute is held during the time that teachers are employed in teaching, their pay must not be diminished by reason of their attendance.

Sec. 1053. The county superintendent of common schools must keep an actual account of the expenses of said institute, with vouchers for the same, and draw his warrant upon the county treasurer for said amount; but such amount must not exceed twenty-five dollars for any one year.

ARTICLE IV.

SCHOOL DISTRICTS.

Section 1060. Names of districts.
" *1061. What forms a district.*
" *1062. Formation and changing boundaries of districts.*
" *1063. Duties of superintendent on receipt of petition.*
" *1064. Duties of county commissioners on same.*
" *1065. Action creating new districts void in some cases.*
" *1066. Apportionment of money in divided districts.*

Sec. 1060. Every school district must be designated by the name and style of "——— district (using the name of the district) of ——— county," (using the name of the county in which such district is situated); and in that name the trustees may sue and be sued, and hold and convey property for the use and benefit of such district. A number must not be used as a part of the designation of any school district.

Sec. 1061. Each county, city, or incorporated town, unless subdivided by the legislative authority thereof, forms a school district, but the commissioners may include more territory than that now included within the boundaries of any incorporated town. The districts must remain as they now exist until changed by law.

Sec. 1062. No new district can be formed unless the parents or guardians of at least fifteen census children, between the ages of six and twenty-one years (resident of such proposed new district), and residing at a greater distance than one mile from any school house, present a petition to the county superintendent of common schools, setting forth the boundaries of the new district asked for. The boundaries of any district can not be changed, except in forming new districts, unless at least ten heads of families residing in the districts affected by the proposed change, present a petition to the county superintendent of common schools, setting forth the change of boundaries desired, and the reasons for the same, but two or more districts lying contiguous may, upon a petition of a majority of the heads of families residing in each of said districts be united to constitute but one district. Joint districts (districts lying partly in one county and partly in another) may be formed in the same manner as other new districts are formed, except that the petition herein provided for must be made to the county superintendent of each county affected; but in the case of joint districts, all the provisions herein enumerated for the formation of a new district must be by concurrent action of the superintendent and the Board of County Commissioners of each county affected.

Sec. 1063. After giving due notice to all parties interested by posting notices in three public places in the district, one of which must be at the door of the school house, for at least one week, the county superintendent must transmit the petition to the Board of County Commissioners.

Sec. 1064. The Board of County Commissioners must, at their first meeting after the receipt of the petition, act upon the same. If the board establishes the district, it may do so in accordance with the original prayer of the petition, or with such modifications as it chooses to make.

Sec. 1065. Unless within four months after the making of an order creating a new district, school is opened therein, the order will cease to have effect.

Sec. 1066. Whenever a district lies partly in one county and partly in another, the county superintendent must apportion to such district such proportion of the school money to which such district is entitled, as the number of school census children residing in that portion of the district situate in his county bears to the whole number of school census children in the whole district. The trustees and teachers of joint districts must make to the superintendents of each county in which the district is located, the reports which other trustees and teachers are required to make, and also the number of pupils attending the school from each county.

ARTICLE V.

ELECTIONS OF SCHOOL TRUSTEES.

Section 1072. Elections, when and where held, number of trustees.
" *1073. Notices of election.*
" *1074. Polling places in incorporated cities.*
" *1075. Judges of election, who are.*
" *1076. Opening and closing polls.*
" *1077. Who may vote.*
" *1078. Voting must be by ballot.*
" *1079. Challenges.*
" *1080. Poll and tally lists.*
" *1081. Certificates of election.*

Sec. 1072. An election for school trustees must be held in each district on the first Saturday of April of each year, at the district school house, if there is one, and if there is none, at a place to be designated by the board of trustees:

1. The number of school trustees for any school district, except in incorporated cities containing a population of one thousand or more, must be three.

2. Women are eligible to hold the office of county superintendent of schools or any school district office, and have the right to vote at any school district election.

3. In new school districts, or in case of vacancy for any cause in an old one, the school trustees must be elected to hold office for one, two, and three years, respectively, from the third Saturday of April next succeeding their election.

4. In incorporated cities or towns containing a population of one thousand or more the seven trustees in office at the time of the adoption of this Code continue so to hold for a term of one, two, and three years, as now provided by law, from the third Saturday of the month of April of the year in which they each were elected, and at all subsequent elections two or three trustees, as the case may be, must be elected.

5. Except as provided in this section, one trustee must be elected annually to hold office for three years, or until his successor is elected and qualified.

Sec. 1073. Not less than ten days before the election required under this Article, the trustees must post notice in three public places in the district, and in incorporated cities in each ward, which notices must specify the time and place of election, and the hours during which the polls will be kept open; if within five days of the election the trustees have failed to post the notices required under this section, then any three electors of the district may give notice of such election.

Sec. 1074. In incorporated cities containing a population of four thousand or more, the trustees may establish not more than three polling places in the district.

Sec. 1075. The trustees must designate two of their number to be judges of election at such polling place. The school district clerk must act as clerk of the election, and if necessary, the judges may appoint a clerk. If the trustees named are not present at the time for opening the polls, the electors present may appoint judges.

Sec. 1076. In districts in which the number of children between six and twenty-one years of age exceed five hundred, the polls must be opened at eight o'clock A. M., and kept open until six o'clock P. M. In other districts the polls must be opened at two o'clock P. M., and kept open until six o'clock P. M.

Sec. 1077. Every qualified elector of the county, who has resided in the district for thirty days next preceding the election, may vote thereat, and the provisions of Chapter III., Title II., Part III., of this Code, do not apply. Women of the age of twenty-one years, who are citizens of the United States, and who have resided in the State one year and the district thirty days, may vote.

Sec. 1078. The voting must be by ballot, but the provisions of Chapter IX., Title II., Part III., of this Code, do not apply.

Sec. 1079. Any person offering to vote may be challenged by any elector of the district, and the judges must thereupon administer to the person challenged an oath, in substance, as follows: "You do swear that you are a citizen of the United States (or that you declared your intention to become a citizen prior to October first, 1889), that you are twenty-one years of age, that you have resided in this State one year, and in this school district thirty days next preceding this election, and that you have not before voted this day." If he takes the oath prescribed in this section, his vote must be received, otherwise his vote must be rejected.

Sec. 1080. A poll and tally list must be kept and returned to the trustees of the school district.

Sec. 1081. The school trustees, after canvassing the votes, must cause the district clerk to make and deliver certificates of election to the persons elected, a copy of which, with the oath of office attached, must be forwarded to the county superintendent, and the school trustees are hereby authorized to administer such oath to their successors.

ARTICLE VI.

SCHOOL TRUSTEES.

Section 1091. School district government.
" *1092. Trustees' election and terms of office.*
" *1093. Terms of office.*
" *1094. Vacancies, how filled.*

Section 1095. Trustees of old, hold over in new districts.
" *1096. Powers of school trustees.*
" *1097. Schools must be maintained for required time.*
" *1098. Stationery and supplies to be furnished pupils.*
" *1099. School moneys, how used.*
" *1100. Liabilities of school trustees.*
" *1101. Liabilities for taxes.*

Sec. 1091. Except when otherwise authorized by law, every school district is under the control of a board of school trustees, consisting of three members, a majority of which constitute a quorum for the transaction of business.

Sec. 1092. In school districts newly organized, or in case of vacancies for any cause in an old one, three school trustees must be elected at the first election, to hold office for one, two and three years, respectively, from the third Saturday in April next succeeding their election, except as provided in Section 1072, of this Code.

Sec. 1093. The term of office of school trustees is three years from the third Saturday in April next succeeding their election.

Sec. 1094. Vacancies in office of school trustees which occur for any of the reasons mentioned in Section 618, of this Code, must be filled until the next annual election by appointment made by the county superintendent of schools, and then by election for the unexpired term. The resignation of a school trustee must be sent in writing to the county superintendent of schools.

Sec. 1095. When a new district is organized, such of the trustees of the old as reside in the new district, are trustees of the latter, and the county superintendent must appoint the remaining trustees for the new and the old district, who hold office until the next annual election.

Sec. 1096. The powers and duties of trustees of school districts, are as follows:

1. To prescribe and enforce rules not inconsistent with law, or those prescribed by the State Board of Education, for their own government and the government of schools, and to transact their business at regular meetings, or at special meetings called for a specified purpose, notice of which special meeting must be given to each trustee.

2. To manage and control the school property within their districts, and to pay all moneys collected by them, from any source whatever for school purposes, into the county treasury to be placed to the credit of the special fund of the district.

3. To purchase school furniture and apparatus, and such other things as may be necessary for the use of schools.

4. To furnish, repair, and insure the school property of their respective districts, and to hire property for school purposes, when necessary.

5. When directed, by a vote of their district, to build or move school houses, or to purchase or sell school lots.

6. To make, in the name of the district, conveyances of all property belonging to the district and sold by them.

7. To employ the teachers, janitors, and other employes of schools; to appoint census marshals, and to fix and order paid their compensation, unless the same be otherwise prescribed by law, but the trustees must not enter into a contract with such employes to extend beyond the thirtieth day of June next ensuing.

8. To suspend or expel pupils for misconduct.

9. To exclude from schools children under six years of age.

10. To enforce in schools the course of study and the use of text books prescribed and adopted by the proper authority.

11. To appoint district librarians, and enforce the rules prescribed for the government of district libraries.

12. To exclude from school and school libraries all books, publications, or papers, of sectarian, partisan, or denominational character.

13. To furnish books for the children of parents unable to furnish them; the books so furnished to belong to the district, and to be kept in the district school library when not in use. To require all pupils to be furnished with suitable books as a condition of membership in the school.

14. To keep a register, open to the inspection of the public, of all children applying for and entitled to be admitted in the schools, and to notify the parent or guardian of such children when vacancies occur, and receive such children in the schools in the order in which they are registered.

15. To make arrangement with the trustees of any other school district for the attendance of such children in the school of either district, as may be best accommodated therein.

16. On or before the first day of May in each year to appoint a school census marshal, and notify the county superintendent of schools thereof.

17. To make an annual report on or before the first day of July, to the superintendent of schools, in the manner and form and on the blanks prescribed by the Superintendent of Public Instruction.

18. To make a report, whenever required, directly to the Superintendent of Public Instruction, of the text books used in their schools.

19. To visit every school in their district at least once in each term, and examine carefully into its management, condition, and wants. This clause applies to each of the trustees.

20. To elect a clerk of the district and one of their number chairman.

21. To provide for each school house separate outhouses for the sexes.

22. In case there are sufficient pupils to justify it, to provide evening schools for pupils above the age of fourteen years.

23. To establish high schools under the rules and regulations prescribed by the State Board of Education.

24. The trustees may call meetings of the qualified electors of the district for determining or changing the location of the school house, or for consultation in regard to any litigation in which the district may be engaged, or be likely to become engaged, or in regard to any other affairs of the district. Such meetings must be called by posting notices in the usual places for not less than three weeks previous to the time for which the meeting is called, one of which must be at the school house, which notices must specify the purposes for which said meeting is called, and no other business must be transacted at such meetings. District meetings must be organized by choosing a chairman from the electors present, and the district clerk must be secretary of the meeting, and must enter the minutes thereof in the records of the district. A meeting so called is authorized to instruct the board of trustees:

1. In regard to the location or change of location of the school house, or the use of the same other than for school purposes.

2. In regard to the purchase and sale of school sites.

3. In regard to the prosecuting, settling, or compromising any litigation in which the district may be engaged, or be likely to become engaged, and may vote money not exceeding one hundred dollars in any one year, for any of those purposes, in addition to any amount which may be raised by the sale of district school property, and the insurance of property destroyed by fire, but the proceeds of the insurance of the library and apparatus must be paid into the library fund. All funds raised by sale of school property may be disposed of by direction of a district meeting. District meetings may be adjourned from time to time as found necessary; and all votes instructing the trustees must be taken by ballot, or by ayes and noes, as the meeting may determine. The trustees are bound by the instructions of the district meeting in regard to the subjects mentioned in this section.

Sec. 1097. The trustees must maintain all the schools established by them for an equal length of time during the year, as far as practicable, with equal rights and privileges.

Sec. 1098. Writing and drawing paper, pens, ink, blackboards, blackboard rubbers, crayons, lead and slate pencils, and other necessary supplies, for the use of schools, must be furnished under the direction of the trustees, and charges therefor must be audited and paid as other claims against the school fund of their districts are audited and paid.

Sec. 1099. The trustees must use the school moneys received from the State and county apportionments exclusively for the support of schools for that school year, until at least eight months' school has been maintained; if, at the end of any year during which an eight months' school has been maintained, there is an unexpended balance, it may be used for the payment of claims against the district outstanding, or it may be used for the year succeeding. Any balance remaining on hand at the end of any school year in which school has not been maintained eight months, must be reapportioned by the superintendent of schools as other moneys are apportioned.

Sec. 1100. The trustees are liable as such, in the name of the district, for any judgment against the district for salary due any teacher on contract, and for all debts contracted for under the provisions of this Chapter, and they must pay such judgment or liabilities out of the school moneys to the credit of such district.

Sec. 1101. If the trustees fail to appoint a census marshal at the proper time, and through such failure the district is omitted in the apportionment of school moneys, the trustees are jointly and severally personally liable to the district for the full amount which the district would have received but for such failure; and the amount may be recovered in an action brought by any citizen of such district in the name and for the benefit of the district.

ARTICLE VII.

DISTRICT CENSUS MARSHALS.

Section 1110. Duty of census marshal.
" *1111. Where district in two counties.*
" *1112. Report of.*
" *1113. Number to be appointed.*
" *1114. Children absent at school to be listed.*
" *1115. Children of non-residents, when not to be included.*
" *1116. Compensation of marshal.*
" *1117. Failure to report, a misdemeanor.*

Sec. 1110. It is the duty of the census marshal:

1. To take annually between the fifteenth and thirty-first days of May, inclusive, a census of all children under twenty-one years of age who were residents of his district on the fifteenth day of May.

2. To report the result of his labors to the superintendent of schools on or before the fifth day of June in each year.

3. He must visit each habitation, home, residence, domicile, or place of abode in his district, and by actual observation and interrogation enumerate the census children of the same.

Sec. 1111. Whenever a district is formed, lying partly in two adjoining counties, the census marshal must report to each county superintendent the number of children in each county.

Sec. 1112. His report must be made under oath, upon blanks furnished by the Superintendent of Public Instruction, and must show:

1. The number, age, sex, color and nationality of the children listed.

2. The names of the parents or guardians of the children, arranged alphabetically, and in cities the number and street of residence must be given.

3. The whole number of children listed between the ages of six and twenty-one years, and the whole number of children listed under six years, and these numbers must be stated separately.

4. Such other facts as the Superintendent of Public Instruction may designate.

5. The census marshal has power to administer oaths to parents and guardians.

6. If at any time the county superintendent of schools has reason to believe a correct report has not been returned, he may appoint a census marshal, and require the census to be retaken, and the compensation for the same must be audited and paid as provided in Section 1116, of this Code.

Sec. 1113. In incorporated cities having a population of four thousand or more, the trustees may appoint more than one, but not exceeding four, census marshals if necessary. In all other districts one marshal must be appointed. In their discretion the trustees may appoint the clerk of the school district a marshal.

Sec. 1114. He must include in his report all children, whose parents or guardians are residents of the district, that are absent attending institutions of learning.

Sec. 1115. He must not include in his report children who are attending institutions of learning, or such benevolent institutions as deaf and dumb, blind and orphan asylums, in his district, but whose parents or guardians do not reside therein.

Sec. 1116. The compensations of the census marshals must be audited and paid as other claims upon the school fund of the district are audited and paid, but such compensation must not exceed five dollars per day for the time actually and necessarily employed.

Sec. 1117. If the census marshal neglect or refuse to make his report at the time and in the manner herein required, or to perform any other duty devolved upon him, he is punishable as provided in Section 185, of the Penal Code.

ARTICLE VIII.

CLERKS OF SCHOOL DISTRICTS.

Section 1120. When and how elected and compensation.
" *1121. General duties.*
" *1122. To provide supplies.*

Sec. 1120. The school trustees must annually on the third Saturday of April, meet and elect one of their number or any other competent person, clerk of the district, and fix his compensation.

Sec. 1121. It is the duty of the clerk:

1. To call meetings of the trustees at the request of a majority of the members and to act as clerk of the trustees, and keep a record of their proceedings.
2. To keep an account of the receipts and expenditures of school moneys.
3. To keep his records and accounts open to the inspection of the electors of the district.
4. To perform such other duties as may be prescribed by the trustees.

Sec. 1122. The clerk of each district must, under the direction of the trustees, provide all school supplies authorized by this Chapter, and keep the school house in repair during the time school is taught therein.

ARTICLE IX.

SCHOOLS.

Section 1130. Who may be admitted to schools.
" 1131. County superintendent to prescribe course of study in each grade.
" 1132. English language must be taught.
" 1133. Instruction, branches in.
" 1134. Other studies may be prescribed by State Board of Education.
" 1135. Instruction in manners and morals.
" 1136. Physical exercise.
" 1137. Sectarian books and teaching prohibited.
" 1138. School hours.

Sec. 1130. Every school, unless otherwise provided by law, must be open for the admission of all children between six and twenty-one years of age, residing in the district, and the trustees have power to admit adults and children not residing in the district whenever good reason exists therefor. Trustees have the power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases; they have the power to establish separate schools for children of African descent in any district containing thirty or more such children of school age.

Sec. 1131. The county superintendent of schools must each year prescribe the course of study in each grade, provided that it does not conflict with Section 1133, of this Code.

Sec. 1132. All schools must be taught in the English language.

Sec. 1133. Instruction must be given in the following branches in the several grades in which each may be required, viz: Reading, writing, orthography, arithmetic, geography, grammar, history of the United States, elements of physiology and hygiene, with special instruction as to the nature of alcholic drinks, narcotics and tobacco, and their effects upon the human system.

Sec. 1134. Other studies may be authorized by the State Board of Education, but no such studies can be pursued to the neglect or exclusion of the studies in the preceding section specified.

Sec. 1135. Instruction must be given in all grades of schools, and in all classes, during the entire school course, in manners and morals.

Sec. 1136. Attention must be given to such physical exercises for the pupils as may be conducive to health and vigor of body as well as mind, and to the ventilation and temperature of school rooms.

Sec. 1137. No publication of a sectarian, partisan or denominational character must be used or distributed in any school, or be made a part of any school library; nor must any sectarian, or denominational doctrine be taught therein. Any school district, the officers of which knowingly allow any schools to be taught in violation of these provisions, forfeits all right to any State or county apportionment of school moneys; and upon satisfactory evidence of such violation, the Superintendent of Public Instruction and county superintendent must withhold both State and county apportionments.

Sec. 1138. No school must be continued in session more than six hours a day; and no pupil under eight years of age must be kept in school more than four hours a day. Any violation of the provisions of this section must be treated in the same manner as a violation of the provisions of the preceding section.

ARTICLE X.

PUPILS.

Section 1150. Pupils, how admitted.
" *1151. Must submit to regulations.*
" *1152. Defacing school property, liability for.*

" *1154. Children must be sent to school at certain ages.*
" *1155. Penalty for not sending children to school.*
" *1156. Duty of school trustees to prosecute.*

Sec. 1150. Pupils must be admitted into the schools in the order in which they apply to be registered.

Sec. 1151. All pupils must comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of such schools.

Sec. 1152. Continued willful disobedience, or open defiance of the authority of the teacher, constitutes good cause for expulsion from school; and habitual profanity and vulgarity good cause for suspension from school.

Sec. 1153. Any pupil who cuts, defaces, or otherwise injures any school house, fences, or outbuildings thereof, is liable to suspension or expulsion, and on the complaint of the teacher or trustees the parent or guardian is liable for all damages.

Sec. 1154. Every parent or guardian or other person, having control of any child between the ages of eight and fourteen years, must send such child to a public or private school, taught by a competent instructor, for a period of at least twelve weeks in each year, six weeks of which time must be consecutive, unless such child is excused from such attendance by the trustees of the school district in which the parent, guardian or person having control of the child resides. Upon its being shown to the trustees' satisfaction that the parent or guardian was not able, by reason of poverty, to clothe the child properly, or that the child's bodily or mental condition was such as to prevent attendance at school or application to study for the period required, or that the child is taught at home by a competent instructor, in such branches as are usually taught in the public schools, subject to the same examinations as other pupils of the district in which the child resides, or that he has already acquired the ordinary branches required by law, or that there is no school taught within one mile of the residence of the child.

Sec. 1155. Any parent, guardian or other person failing to comply with the provisions of the preceding section is punishable as provided in Section 291, of the Penal Code.

Sec. 1156. All school trustees must inquire into all cases of neglect of duty prescribed in this Article, and ascertain from the person or persons neglecting, the reasons, if any, therefor, and must prosecute any offence committed under this Article, and any trustee neglecting to prosecute for such offence within ten days after a written notice has been served on him by any tax payer in his district, unless the person or persons so complained of is excused by the district trustees for reasons hereinbefore stated, is punishable as provided in Section 291, of the Penal Code.

ARTICLE XI.

TEACHERS.

Section 1166. Duties of teachers.

" *1167. School month and school week. Not required to teach on holidays.*

" *1168. Appeal allowed from order removing teacher.*

" *1169. No warrant to be drawn in certain cases.*

Section 1170. No warrant to be drawn unless teacher has certificate.
" 1171. Duties of teachers as to instruction in morality, temperance, patriotism, etc.
" 1172. Teachers must be eighteen years old.
" 1173. No discrimination against female teachers.
" 1174. No religious or partisan test must ever be required.

Sec. 1166. Every teacher in the public schools must:

1. Before assuming charge of a school file a certificate with the county superintendent.

2. On taking charge of a school, or closing a term of school, immediately notify the county superintendent of such fact.

3. Enforce the course of study, the use of text-books, and the rules and regulations prescribed for schools.

4. Hold pupils to a strict account for disorderly conduct on the way to and from school, on the play grounds or during recess; suspend for good cause any pupil in the school, and report such suspension to the trustees for review.

5. Keep a school register.

6. Make an annual report to the county superintendent at the time and in the manner and on the blanks prescribed by the Superintendent of Public Instruction. Any school teacher who ends any school term before the close of the school year, must make a report to the county superintendent immediately after the close of such term, and any teacher who may be teaching any school at the end of the school year must, in his or her annual report, include all statistics for the entire school year, notwithstanding any previous report for a part of the year.

7. Make such other reports as may be required by the Superintendent of Public Instruction, county superintendent or trustees.

Sec. 1167. A school month is construed and taken to be twenty school days, or four weeks of five school days each. No teacher is required to teach on Saturday, the first day of January, the twenty-second of February, the thirtieth day of May, the fourth day of July, the first Monday of September, Thanksgiving day or Christmas day, and no deductions must be made from teachers' wages by failure to teach on such days.

Sec. 1168. In case of the dismissal of any teacher before the expiration of any written contract entered into between such teacher and trustees, for alleged unfitness or incompetence, or violation of rules, the teacher may appeal to the county superintendent, and if the superintendent decides that the removal was made without good cause, the teacher so removed must be reinstated.

Sec. 1169. No warrant must be drawn in favor of any teacher, unless the officer whose duty it is to draw such warrant is satisfied that the teacher has faithfully performed all the duties prescribed in Section 1166 of this Code.

Sec. 1170. No warrant must be drawn in favor of any teacher, unless such teacher is the holder of a proper certificate, in force for the full time for which the warrant is drawn, nor unless the teacher was employed by the trustees, or by the superintendent as provided in Section 1042, of this Code.

Sec. 1171. It is the duty of all teachers to endeavor to impress on the minds of the pupils the principles of morality, truth, justice, and patriotism, and that manual labor is the most honorable occupation; to teach them to avoid idleness, profanity, gambling and the use of intoxicating liquors and tobacco and falsehood, and to instruct them in the principles of free government, and to train them up to a true comprehension of the rights, duties, and dignity of Amercan citizenship.

Sec. 1172. No person is eligible to teach in any public school in this State, or to receive a certificate to teach, who has not attained the age of eighteen years.

Sec. 1173. Females employed as teachers in the public schools must receive the same compensation as male teachers for like services and holding the same grade of certificate.

Sec. 1174. No religious or partisan test or qualification must ever be required of any person as a condition of admission into any public schools or public educational institutions of this State, either as teacher or student, nor must attendance be required at any religious service whatever, nor must any sectarian tenets be taught in any public school or public educational institution of the State.

ARTICLE XII.

DISTRICT LIBRARIES.

Section 1184. Library fund, how expended.
" *1185. Of what fund consists.*
" *1186. Control and location.*
" *1187. Who may use.*
" *1188. Trustees, power as to libraries.*

Sec. 1184. The trustees must expend the library fund, together with such moneys as may be added thereto by donation, in the purchase of school apparatus, and books for school library; and no warrant must be drawn by the county superintendent upon the order of the trustees against the library fund of any district, unless such order is accompanied by an itemized bill, showing the books and apparatus, and the price of each, in payment for which the order is drawn.

Sec. 1185. The library fund consists of ten per cent. of the State school fund annually apportioned to the district, unless ten per cent. exceeds fifty dollars, in which event it consists of fifty dollars annually taken from the funds so apportioned.

Sec. 1186. Libraries are under the control of the trustees, and must be kept, when practicable, in the school houses.

Sec. 1187. The library is free to all pupils of a suitable age belonging to the school, and any resident of the district may become entitled to its privileges by the payment of such a sum of money for life membership, or such annual or monthly fee as may be prescribed by the trustees.

Sec. 1188. The trustees are accountable for the proper care and preservation of the library, and have power to assess and collect all the fines, penalties, and fees of membership, and to make all needful rules and regulations not provided for by the State Board of Education, and not inconsistent therewith; and they must report annually to the county superintendent all library statistics which may be required by the blanks furnished for the purpose by the Superintendent of Public Instruction.

ARTICLE XIII.

HIGH SCHOOLS.

Section 1200. High schools may be established by trustees.
" 1201. State Board of Education to establish text books, grade and prescribe regulations.

Sec. 1200. Whenever the interests of any district requires it, the trustees may establish a high school, employ a principal teacher and subordinate teachers.

Sec. 1201. The State Board of Education must establish a uniform system of text books to be used in all high schools, and grade the same and prescribe regulations for their conduct and maintenance.

ARTICLE XIV.

EXAMINATIONS AND CERTIFICATES.

Section 1215. Superintendent of Public Instruction to prepare all questions and prescribe rules.
" 1216. County superintendent of schools to hold examinations at certain times.
" 1217. Certificates to be given and grades thereof.
" 1218. Qualifications in addition.
" 1219. Percentage by whom prescribed.
" 1220. Permission to teach by whom granted.
" 1221. Certificate good in any county, when.
" 1222. No person allowed to teach without certificate or permission.
" 1223. Every applicant to pay one dollar.
" 1224. Granting and renewal of certificate.

Sec. 1215. The Superintendent of Public Instruction, under the direction of the State Board of Education, must prepare or cause to be prepared all questions for the examination of applicants for teachers' certificates, and prescribe the rules for the conduct of all examinations.

Sec. 1216. The county superintendent of schools must hold examinations of all persons over eighteen years of age offering themselves as candidates for teachers of the public schools, at the county seat, on the second Fridays in April, June, August and October of each year, and when necessary, such examination may be continued from day to day until completed, at which times he must examine them by written or printed questions, as well as by oral examination, according to the rules prescribed by the Superintendent of Public Instruction. If from the percentage of correct answers required by the rules, the applicant is found to be qualified, and is a person of good moral character, the county superintendent must grant such applicant a certificate of qualification.

Sec. 1217. Such certificates are of three grades, the first grade for three years, the second grade for two years, and the third grade for one year, according to the ratio of correct answers of the applicant, and other evidence of qualification. No certificate must be granted unless the applicant is found to be proficient in and qualified to teach the branches mentioned in Section 1133, of this Code.

Sec. 1218. In addition to the above, applicants for the first grade must have had twelve months' experience in teaching, and must be examined in any other branches prescribed by the Superintendent of Public Instruction.

Sec. 1219. The percentage required to pass any branch must be prescribed by the Superintendent of Public Instruction.

Sec. 1220. The county superintendent may also grant a permission to teach until the next regular examination, to any person applying at any other time than at the regular examination, who can show satisfactory reasons for not attending the same, subject to the rules and regulations prescribed by the Superintendent of Public Instruction.

Sec. 1221. Certificates of the first and second grades granted in any county are valid in any other county of the State when indorsed by the county superintendent of such other county.

Sec. 1222. No person must be employed or permitted to teach in any of the public schools who is not the holder of a lawful certificate of qualification or temporary permission mentioned in Section 1220, of this Code. Any contract made in violation of this section is void.

Sec. 1223. Every applicant for a county certificate must pay one dollar to the county superintendent, to be used by him in support of the teachers' institute in the county.

Sec. 1224. The county superintendent may also, without examination, grant county certificates, and fix the grade thereof, to the holder of a life diploma, Montana State Educational diploma, or State Normal School diploma of other States; and may, without examination, renew certificates previously issued by him, or previously granted in his county; such renewed certificates to remain valid for the same length of time for which the original certificates were granted. The county superintendent must issue, under his official seal, certificates upon the blank forms to be prepared and distributed by the Superintendent of Public Instruction.

ARTICLE XV.

COUNTY SCHOOL TAX.

Section 1234. Estimate of county school fund.
" *1235. County commissioners must levy tax.*
" *1236. How paid into county treasury.*

Sec. 1234. The county superintendent of each county must, on or before the first regular meeting of the county commissioners in September in each year, furnish the board of county commissioners an estimate in writing of the minimum amount of county school fund needed for the ensuing year.

Sec. 1235. For the purpose of establishing and maintaining public schools, the Board of County Commissioners of each county must levy an annual tax of not less than three, nor more than five mills, on the dollar, on all taxable property within their respective counties, as shown by the assessment rolls made by the county assessor for the same year, and the county treasurer must collect such tax in the same manner as the other county taxes are collected.

Sec. 1236. All moneys derived from this tax in each county must be paid into the treasury thereof to the credit of the school fund.

ARTICLE XVI.

DISTRICT SCHOOL TAX.

Section 1245. Election to determine levy of tax.
" *1246. Notice of election.*
" *1247. What notice to contain.*
" *1248. Polling places and judges.*
" *1249. Election how conducted.*
" *1250. Ballots what to contain.*
" *1251. Returns.*
" *1252. Trustees to report to county commissioners.*
" *1253. County commissioners to levy tax.*

Sec. 1245. The trustees of any district may, when in their judgment it is advisable, call an election, and submit to the electors of the district the question whether a tax shall be raised to furnish additional school facilities for the district, or to maintain any school in such district, or for building one or more school houses, or for removing or building additions to one already built, or for the purchase of globes. maps, charts, books of reference, or other appliances for teaching, or for any or all these purposes, but where a tax has been collected for the purpose of building a school house, and the erection of said school house has not been commenced within one year from the time said tax was collected, the custodian of said money must return the same to the parties from whom said tax was collected.

Sec. 1246. Such election must be called by posting notices in three of the most public places in the district, for twenty days; and also by publishing notice thereof in some newspaper, if there be one in the county, once a week for three successive weeks.

Sec. 1247. Said notices must specify the time and place of holding the election, the amount of money, proposed to be raised, and the purpose for which it is intended to be used.

Sec. 1248. The polling places must be established and the judges to conduct the election must be designated as provided in Sections 1074 and 1075, of this Code.

Sec. 1249. The election must be had in all respects as nearly as practicable in conformity to the general election law, and the provisions of Sections 1076, 1077 and 1078, of this Code.

Sec. 1250. At such election the ballots must contain the words, "Tax—Yes," or "Tax—No."

Sec. 1251. If a majority of the votes cast are "Tax—Yes," the officers of election must certify the fact to the trustees.

Sec. 1252. The trustees, upon receipt of a certificate of such fact, must report the same to the Board of County Commissioners, stating the amount of money to be raised.

Sec. 1253. The county commissioners must, at the time of levying the county taxes, levy a tax upon all the taxable property in the district voting such tax, sufficient to raise the amount voted. The rate of taxation must be ascertained by deducting fifteen per cent. for anticipated delinquencies from the aggregate assessed value of the property in the district, as it appears on the assessment roll of the county, and then dividing the sum voted by the remainder of such aggregate assessed value. The taxes so levied must be computed and entered on the assessment roll by the county clerk, and collected at the same time and in the same manner as State and county taxes; and when collected must be paid into the county treasury for the use of the district in which the tax was voted.

ARTICLE XVII.

GENERAL PROVISIONS RELATING TO SCHOOL FUNDS, TAXES AND BONDS.

Section 1263. Compensation to certain officers not allowed.

Section 1264. School moneys, how apportioned.
" *1265. School moneys apportioned by county superintendent.*
" *1266. No apportionment unless school is kept.*
" *1267. No apportionment unless teachers hold legal certificates.*
" *1268. Proceeds of sales of town lots.*
" *1270. Trustees may use such proceeds.*
" *1271. Land in town site may be taken for school purposes.*
" *1272. Bonds with coupons may be issued by trustees, when.*
" *1273. Manner of conducting election.*
" *1274. Notice of sale of bonds.*
" *1275. County commissioners must levy a tax.*
" *1276. Treasurer must redeem bonds.*
" *1277. Treasurer must pay interest.*
" *1278. Trustees must print and issue bonds with coupons attached.*

Sec. 1263. No assessor or county treasurer must charge or receive any fees or compensation whatever, for assessing, collecting, receiving, keeping, or disbursing any school moneys, but the whole moneys collected must be paid to the county treasurer.

Sec. 1264. All State and county school moneys apportioned by the Superintendent of Public Instruction must be distributed to the several counties in proportion to the number of school census children between the ages of six and twenty-one years of age, as shown by the returns of the school census marshals of the preceding school year; but the Indian children, who are not living under the guardianship of white persons, must not be included in the apportionment list.

Sec. 1265. The county superintendent in each county, must apportion all the State and county school moneys to the different school districts in the proportion stated in the preceding section.

Sec. 1266. No school district, except one newly formed, is entitled to receive any apportionment of State or county school moneys which has not maintained a public school for at least three months during the then next preceding school year. A district which is prevented by fire, flood, or a prevailing epidemic, from maintaining a school for the length of time designated in this section, is nevetheless entitled to its apportionment of State and county school moneys.

Sec. 1267. No school district is entitled to receive any apportionment of State or county school moneys, unless the teachers employed in the schools of the district hold legal certificates of fitness for teaching, in full force and effect.

Sec. 1268. All moneys arising from the sale of town lots under and by virtue of the several acts of the Legislative

Assembly of the Territory or State of Montana relating to town sites, that may come into the possession or are in the possession of the district judge, or the corporate authorities of any city or town of this State, must be paid into the county treasury of the county for the use and benefit of the common schools of the school district in which such city or town is situated, to be used as provided in this Article.

Sec. 1270. The trustees of any school district are hereby authorized to use such money for the purpose of building, repairing, or furnishing a school house in such place, in the town or city, from the sale of lots from which such fund arose, as they may designate.

Sec. 1271. Whenever, under the provisions of law, a site for a college or university has been or shall be set apart by proper authority from lands or lots in the town site, the trustees of the school district in which such site is situate, may take possession thereof and occupy the same, or any part thereof, for school purposes, until the same is needed for the uses for which it was originally set apart; and, if in the judgment of the Superintendent of Public Instruction, such site is more appropriate and will be more useful as school grounds for the public schools, than as a site for a college or university, he must so declare in writing, which declaration must be filed with such proper authority, and thereafter the said college or university ground belongs to said school district.

Sec. 1272. The school trustees may, whenever a majority so decide, submit to the electors of the district the question whether the trustees shall be authorized to issue coupon bonds to a certain amount, not to exceed four per cent. of the taxable property in such district, and bearing a certain rate of interest, not exceeding seven per centum per annum, and payable and redeemable at a certain time, for the purpose of raising money for purchasing school lots and building or purchasing one or more school houses in such district. Whenever the bonds of any school district, for such purpose, shall have been issued to such an amount, such question must not again be submitted, nor must any additional bonds be issued until the entire outstanding bonds be paid.

Sec. 1273. Such election must be held and conducted in the manner prescribed in Article V., of this Chapter, but the ballots must contain the words: "Bonds, yes," or "Bonds, no." If a majority of the votes cast at such election are "Bonds, yes," the trustees must issue such bonds in such form as they may direct, which must bear the signature of the chairman of the trustees, and must be countersigned by the clerk of the district; and the coupons attached to the bonds must be signed by the chairman and clerk. Each bond so issued must be registered by the county treasurer in a book provided for that purpose, which must show the number and amount of each bond, and the person to whom the same is issued. The bonds must be sold by the trustees as hereinafter provided.

Sec. 1274. The trustees must give notice by advertisement in some newspaper published in the county, for a period of not less than four weeks, to the effect that the trustees will sell such bonds (briefly describing the same) and stating the time when, and the place where, such sale will take place. The bonds must not be sold for less than their par value, and the trustees are authorized to reject any bids, and to sell the bonds at private sale, if they deem it for the best interest of the district; and all moneys arising from the sale of said bonds must be paid forthwith, into the treasury of the county, to the credit of said district, and the same is immediately available for the purpose of building or providing the school houses authorized by this Article.

Sec. 1275. The county commissioners, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon the taxable property in such district, for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest of said bonds for that year, and such portion of the principal as is to become due during such year, and in any event must be high enough to raise, annually, for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon; and during the balance of the term, high enough to pay such annual interest, and to pay, annually, a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds have to run; and all moneys so levied, when collected, must be paid into the county treasury to the credit of such district, and be used for the payment of principal and interest on said bonds, and for no other purpose.

Sec. 1276. When the sum raised by such taxation equals or exceeds the amount of any bond then due, the county treasurer must post in his office a notice that he will, within thirty days from the date of such notice, redeem the bonds then payable, giving the numbers thereof, and preference must be given to the oldest issue; and if at the expiration of the said thirty days the holder of said bonds fails or neglects to present the same for payment, interest thereon shall cease; but the treasurer must at all times thereafter be ready to redeem the same on presentation, and when any bonds are so purchased or redeemed; the county treasurer must cancel bonds so purchased and redeemed by writing across the face of each bond, in red ink, the word "Redeemed," and the date of such redemption.

Sec. 1277. The county treasurer must pay out of any moneys belonging to a school district the interest upon any bonds issued under this Article by such district when the same becomes due, upon the presentation at his office of the proper coupon, which must show the amount due, and the number of the bond to which it belonged; and all coupons so paid must be reported to the school trustees at their first meeting thereafter.

Sec. 1278. The trustees of any district must cause to be printed or lithographed, at the lowest rates, suitable bonds, with the coupons attached, when it is necessary, and pay therefor out of any moneys in the county treasury to the credit of said school district.

ARTICLE XVIII.

SCHOOL TEXT BOOKS.

Section 1295. Text books must be uniform.
" *1296. Text books to be used for six years, from July 1st, 1889, and on what condition adopted.*
" *1297. List of the text books adopted, and prices.*
" *1298. Duties of Superintendent of Public Instruction and county superintendent.*
" *1299. Penalty for not using the text books adopted.*
" *1300. School officers and teachers must report about the use of text books.*
" *1301. State Board of Education hereafter to provide uniform system of text books.*

Sec. 1295. The text books in the several branches required by law to be taught in the public schools must be uniform.

Sec. 1296. The text books hereinafter named are hereby adopted for exclusive use in the public schools, so far as the same may be applicable to the grade of study pursued in the schools where used, for the term of six years, from the first day of July, A. D. eighteen-hundred and eighty-nine, or until changed in pursuance of law. The publishers must, for the period mentioned, keep such books for sale, at the lowest wholesale rates in the city of New York, Chicago, and Cincinnati, to all responsible merchants in Montana, or to school trustees desiring to purchase the same from time to time, in such quantities as may be necessary to supply their schools. The said books must be sold at retail for such period, at not to exceed the prices hereinafter named, set opposite the titles of said books in the column headed "Retail Price." In case the current wholesale prices are reduced, then all the merchants and school trustees desiring to purchase books for the supply of schools must have the benefit of such reduction, and a corresponding reduction must be forthwith made in the retail prices. The publishers must maintain the mechanical excellence of said books at least equal to their present standard, in respect to binding, printing, quality of paper, and all other essential features; and those sold to the people of Montana shall always be of the latest revised edition. And the map and special descriptive geography of Montana must be revised every three years, from July, 1889, by the publishers. If the publishers violate or fail to perform any of the conditions specified in their bonds heretofore given, and fail, within a reasonable time after notice, to make good their guarantee in any respect in which they have failed, then the adoption is null and void.

Sec. 1297. The following are the titles and prices of the text books adopted:

	Retail Price.	Introduction Price.	Exchange Price.
McGuffey's Revised Eclectic First Reader	$ 20	$ 17	$ 10
McGuffey's Revised Eclectic Second Reader	35	30	18
McGuffey's Revised Eclectic Third Reader	50	42	25
McGuffey's Revised Eclectic Fourth Reader	60	50	30
McGuffey's Revised Eclectic Fifth Reader	85	72	45
Swinton's Word Book	25	18	10
Fish Arithmetic No. One	35	30	15
Fish Arithmetic No. Two	70	60	30
Barnes' Elementary Geography	75	35	25
Barnes' Complete Geography	1 35	80	[illegible]
Barnes' Short Studies in English, part first	35	30	15
Barnes' Short Studies in English, part second	45	40	25
Harvey's Revised English Grammar	80	65	40
Barnes' Brief History, United States	1 20	80	60
Barnes' Primary History, United States	70	60	30
Child's Health Primer	35	30	15
Physiology for young people	60	50	30
Steele's Hygienic Physiology	1 20	1 00	65
Spencerian Copy Books (Common School Series)	10	8	......
Spencerian Copy Books (Short Course and Tracing)	8	6	......
Eclectic Complete Bookkeeping	65	50	......
Eclectic Bookkeeping blanks per set	60	45	......
Lovell's Graphic Drawing Books	15	10	......
Lovell's Civics for young people	50	40	......

Sec. 1298. It is the duty of the Superintendent of Public Instruction to have the prices of the text books properly printed and distributed, and it is the duty of the county superintendent to have such prices posted in each school room in the district.

Sec. 1299. If any school district use other text books than those adopted for the same studies such district must forfeit twenty-five per cent. of the county school fund, which must be apportioned among the other school districts of the county.

Sec. 1300. All school officers and teachers are charged with the execution of this Article, and the county school superintendent must, in his annual report, state whether the authorized text books are used in the schools in his county.

Sec. 1301. After the expiration of the present contract, the State Board of Education must provide a uniform system of text books to be used in the public schools and may prescribe all necessary regulations in regard to the same.

ARTICLE XIX.

MISCELLANEOUS PROVISIONS RELATING TO PUBLIC SCHOOLS.

Section 1315. Insulting or abusing a teacher.
" *1316. Disturbing schools.*
" *1317. Issuing irregular certificate.*
" *1318. Officers, acting as agents.*
" *1319. Certificates only to persons of good morals.*
" *1320. Officers may administer oaths.*
" *1321. Officer not to be interested in contracts.*
" *1322. Printing and binding, by whom done.*
" *1323. School year.*
" *1324. Bribery of member, testimony and investigation.*

Sec. 1315. Any parent, guardian or other person, who insults or abuses any teacher, in the presence of the school is punishable as provided in Section 725, of the Penal Code.

Sec. 1316. Any person who shall willfully disturb any public school or any public school meeting, is punishable as provided in Section 60, of the Penal Code.

Sec. 1317. Any State Board of Education, or county superintendent of schools, who issues a certificate or diploma, except as provided for in this Title, is punishable as provided in Section 180, of the Penal Code.

Sec. 1318. No officer named in this Title, or teacher in any public school held under the provisions of this Title, must act as agent for any author, publisher, bookseller, or other person, to introduce any book, apparatus, furniture, or any other article whatever, in the public schools of this State, or any one or more of them, or directly or indirectly contract for, or receive any gift or reward for so introducing or recommending the same; and any officer or teacher so acting or receiving, is punishable as prescribed in Section 78, of the Penal Code, and shall be removed from his office or position.

Sec. 1319. Certificates must be issued to such persons only as give evidence of good moral character.

Sec. 1320. Every officer charged with the performance of duties under the provisions of this Chapter, may administer and certify oaths relating to offices or official matters concerning public schools.

Sec. 1321. No school trustee or member of any board of education, or any school officer, must be interested in any contract made in relation to the public schools, and any contract made in violation of this provision is void.

Sec. 1322. All printing or binding required under this Title must be done in the form and manner and at the prices of other State and county printing.

Sec. 1323. The school year begins on the first day of August and ends on the last day of July.

Sec. 1324. The offering of any valuable thing to any member of a board of education, trustee, or other school officer, with the intent thereby to influence his action in regard to the granting of any teacher's certificate, the appointment of any teacher, superintendent, or other officer or employe, the adoption of any text book, or the making of any contract to which such board, trustee, or officer, is a party, or the acceptance by any member of such board, trustee, or officer, of any valuable thing, with corrupt intent, is a felony, and is punishable as provided in Section 109, of the Penal Code. Any contract or appointment obtained from such board, trustee, or officer, by corrupt means is void. The Board of County Commissioners, or any duly authorized committee thereof, may investigate the conduct of any member of such board, or of any trustee, school officer, or employe, who may be charged with malfeasance in office, and in such capacity is entitled to process, the same as a court, to compel the attendance of witnesses; and the officer who presides at such investigation has the power to administer all necessary oaths.

TITLE IV.

STATE MILITIA.

Chapter I. Enrolled militia.
" *II. Commander-in-chief.*
" *III. The National Guard.*
" *IV. Calling and drafting the militia into actual service.*
" *V. Courts-martial.*

CHAPTER I.

ENROLLED MILITIA.

Section 1350. Who are subject to military duty.
" *1351. Who are exempt from military duty.*
" *1352. Assessor to enroll persons subject to military duty.*
" *1353. Board of Equalization to correct.*
" *1354. Penalty for dereliction as to enrollment.*
" *1355. Duty of clerk of Board of Commissioners and Governor.*

Sec. 1350. The militia of the State of Montana consists of all able-bodied male citizens of the State between the ages of eighteen and forty-five years, inclusive, except such persons as are or may be exempted by the laws of the State or of the United States.

Sec. 1351. The following persons are exempt from military duty and enrollment:

1. Civil and military officers of the United States.
2. Civil officers of the State of Montana.
3. All persons exempted from military duty by the laws of the United States.

Sec. 1352. The county assessor of each county in the State must, at the same time in each year when he prepares a roll containing the taxable inhabitants of his county, enroll all the citizens thereof subject to military duty, which roll must be sworn to by him and delivered to the clerk of the Board of County Commissioners at the same time he delivers the assessment roll.

Sec. 1353. The Board of Equalization must correct the roll at the same time and in the same manner as is provided by law for the correction of the assessment roll.

Sec. 1354. Any assessor who neglects or refuses to perform any of the duties required of him by this Chapter is subject to the same liabilities as are provided by law for a neglect or refusal to perform any of the duties required of him in the assessment of taxes.

Sec. 1355. The clerk of the Board of County Commissioners of each county must, within thirty days after the delivery of such military roll to him by the assessor, transmit a duplicate thereof to the Governor, and the Governor must inform each Legislative Assembly of the State the number of the enrolled militia thereof.

CHAPTER II.

THE COMMANDER-IN-CHIEF.

Section 1360. The Governor is commander-in-chief.
" 1361. When Governor out of State.
" 1362. Must collect arms.
" 1363. Must provide arsenal.
" 1364. Must give bond.
" 1365. Duty of Secretary of State.
" 1366. Faith of State pledged.

Sec. 1360. The Governor is the commander-in-chief of the militia forces of the State, except when these forces are in actual service of the United States, and has power to call out any part or the whole of said forces to aid in the execution of the laws, to suppress insurrection or to repel invasion.

Sec. 1361. When the Governor, with the consent of the Legislative Assembly, is out of the State in time of war, at the head of any military force thereof, he continues commander-in-chief of all the military forces in the State.

Sec. 1362. The commander-in-chief must collect at the capital all the arms and ammunition, military stores and equipments of every kind belonging to or in use by the State.

Sec. 1363. The commander-in-chief must provide a suitable arsenal at the seat of government, to be known as the State arsenal, for the storage, safe keeping and preservation of all arms, ordnance stores, quartermasters' stores and other military supplies and property, and no such stores must be issued to the National Guard or militia, except upon the requisition of the officer requiring the same, lawfully entitled to make such requisition, particularly specifying the stores required.

Sec. 1364. The commander-in-chief must execute in the name of the State good and sufficient bonds in such sums as the secretary of war may require, conditioned for the return by the State of such arms, ordnance stores or ammunition, as may be issued by the United States, to any person authorized to receive the same on behalf of the State.

Sec. 1365. The Secretary of State must countersign and affix the seal of the State to all bonds which may be executed under the provisions of the next preceding section.

Sec. 1366. The faith of the State is pledged to the faithful performance by the State of all the conditions of said bonds.

CHAPTER III.

THE NATIONAL GUARD.

Article I. General provisions relating to the National Guard.
" II. Companies and the distribution of arms.
" III. Regiments and battalions.
" IV. Duties of staff officers.

ARTICLE I.

Section 1370. Members of enrolled militia may volunteer.
" 1371. Organized militia known as National Guard.
" 1372. Governor commander-in-chief of National Guard.
" 1373. Staff of commander-in-chief.
" 1374. National Guard in time of peace.
" 1375. Commander-in-chief to locate companies.
" 1376. May make changes in the organization.
" 1377. Number of officers may be increased.
" 1378. Uniform.
" 1379. Organization must conform to United States army.
" 1380. Same.
" 1381. Number, rank and title of officers.
" 1382. How commander-in-chief may increase number.
" 1383. Make same detail.
" 1384. Maximum and minimum of companies.
" 1385. Receive no pay except in actual service.

Section 1386. Pay when in service.
" *1387. Staff appointment effects a resignation.*
" *1388. Oath of officers and members.*
" *1389. Officer may be discharged, when.*
" *1390. Military board, who compose.*
" *1391. Term of officers and enlisted men.*
" *1392. Commanding officer may discharge men in certain cases.*
" *1393. Commander-in-chief may disband companies.*
" *1394. Rank of officers.*
" *1395. Officers re-elected not re-commissioned.*
" *1396. Resignation, how made.*
" *1397. Vacancies, how filled.*
" *1398. Discharge of enlisted soldier.*
" *1399. Disobedience of orders, penalty.*
" *1400. Selling liquors on grounds.*
" *1401. Interrupting officer or member in discharge of duty, penalty.*
" *1402. Expulsion bar to re-entry.*
" *1403. Protection of parade ground.*
" *1404. By-laws.*
" *1405. Fines.*
" *1406. Exemptions.*
" *1407. List of exempts to be given to assessor.*
" *1408. No fees allowed officers for administering oaths.*
" *1409. Commander-in-chief may establish rules and regulations.*
" *1410. What colors may be carried.*
" *1411. P[illegible]*
" *[illegible]*
[illegible]

aids-de-camp, with rank of colonel, appointed by and to hold their commissions during the pleasure of the commander-in-chief.

Sec. 1374. In time of peace, the National Guard consists of not more than six companies of infantry, and three troops of cavalry, fully uniformed, armed and equipped.

Sec. 1375. The commander-in-chief must direct in what localities the National Guard may be organized, and how it may be organized into regiments, battalions, or unassigned companies.

Sec. 1376. The commander-in-chief has the power to make such alterations in the organization and arrangement of the National Guard from time to time, as he thinks necessary for the good of the service.

Sec. 1377. Until otherwise authorized by law there must not be more than one colonel and one lieutenant colonel of the line. But in the case of war, invasion, insurrection, riot, or imminent danger thereof, or to aid in the execution or enforcement of the law and to preserve order, the commander-in-chief may increase such force, and organize the same, and appoint and commission such officers as the exigencies of the occasion may require.

Sec. 1378. The uniform of the National Guard must be the same as that adopted and in use in the army of the United States, and the uniform of the generals and staff officers must be similar to that of officers of the same grade in the army of the United States, except that the button worn must bear the coat of arms of Montana. No other uniform must be used.

Sec. 1379. The organization of the National Guard must conform from time to time to the provisions of the laws of the United States regulating the organization of the army thereof. [illegible] The system of tactics and discipline must also conform to [illegible]

[illegible] The National Guard must be divided [illegible]

Sec. 1383. The commander-in-chief and other officers of the National Guard may make the same details of officers, non-commissioned officers and enlisted men, under similar conditions, as are made in the army of the United States, for the discharge of similar duties.

Sec. 1384. No company, troop, or battery of the National Guard must have less than forty-five nor more than one hundred enlisted men, and every such organization having less than forty-five members for two consecutive months, must be disbanded, and its officers and enlisted men mustered out of service.

Sec. 1385. When not in active service in time of war or in case of invasion, insurrection, riot, or imminent danger thereof, or to aid in the execution and enforcement of the law, and to preserve order, neither the officers nor members of the National Guard, except the adjutant general and ordnance officer, or officer detached for a special purpose, must receive any pay, compensation or emolument for the time spent in any drill, parade, muster, or inspection mentioned in this Title.

Sec. 1386. When called into active service in time of war or in case of invasion, insurrection, riot, or imminent danger thereof, or to aid in the execution and enforcement of the law, or to preserve order, the pay per diem of the officers of the National Guard must must be as follows: Members and corporals, $2; sergeants and regimental or battalion non-commissioned staff, $2.25; sergeant major, $2.50; and all commissioned officers, $3. Officers when ordered on special duty by the commander-in-chief must receive the same pay as when in active service, and actual traveling expenses.

Sec. 1387. Any officer of a regiment, battalion, or company, accepting any staff appointment, is held to have resigned his commission in such regiment, battalion or company.

Sec. 1388. All officers and members of the National Guard, before performing duty, and at each subsequent re-enlistment, must take and subscribe the following oath, which all commissioned officers thereof are authorized to administer: "I do solemnly swear, that I will support the Constitution of the United States and the Constitution of the State of Montana, and I will maintain and defend the laws and all officers employed in administering the same." Which oath, certified by the officer administering the same, must be returned to the adjutant general, and be preserved with the rolls of companies. Oaths of re-enlistment must show on the margin the number of re-enlistment.

Sec. 1389. The commander-in-chief may discharge a commissioned officer:

1. When such officer tenders his resignation.

2. When it appears to the commander-in-chief that he has been found by a court-martial, court of inquiry, or military board, unable, or unfit to discharge the duties of his office, or

to exercise proper authority over his subordinate officers or enlisted men, or that he has been convicted of a felony.

3. When either before or after receiving his commission, he has removed his residence out of the bounds of his command, to so great a distance that it is inconvenient for him to perform the duties of his office.

4 When he has been absent from his command more than three months without leave.

5. Upon sentence of a court-martial after trial according to law .

6 Upon recommendation of the military board.

Sec. 1390. A military board must be appointed by the commander-in-chief, and consists of three, viz: the adjutant general, inspector general and one officer of line, to hold office until the order convening the same is rescinded, whose duty it is to examine the capacity, qualification and efficiency of every commissioned officer who is elected.

Sec. 1391. The term of every commissioned officer is for three years, unless his commission is otherwise lawfully determined and annulled. Every enlisted man must serve for the term of three years, unless sooner discharged for disability, which incapacitates him to perform his duty or for other sufficient cause. They are entitled to exemptions from civil duties as provided by law.

Sec. 1392. The company commanded upon the approval may, and upon the order of his superior commanding officer must, for good cause shown, discharge any enlisted man of his company, and all commanding officers may, for cause, discharge their non-commissioned staff officers; the certificate of discharge by such company or other commanding officer is, when approved by the commander-in-chief, in all cases good and valid.

Sec. 1393. The commander-in-chief may at any time, for good and sufficient cause, disband any portion of the National Guard.

Sec. 1394. All commissioned officers of regiments, battalions, and companies of the National Guard, must take rank according to the date assigned them by their commissions; and when two of the same grade are of the same date their rank must be determined by length of previous military service in the State; and if of equal service, then by lot. Officers of regiments, battalions, and companies of the National Guard in all cases are of superior rank to officers of the enrolled militia of the same grade, irrespective of the date of their commissions.

Sec. 1395. When an officer is re-elected no new commission issues, but a certificate of such election must be issued to him by the adjutant general. In the event of a commission being lost or destroyed, on satisfactory proof being given of the same, the commander-in-chief must issue a new commission, with rank from date of former commission.

Sec. 1396. Any officer resigning his commission must do so in writing, addressing the adjutant general, giving his reasons therefor, and transmit the same through his immediate commanding officer, who will make his indorsement thereon, and the resignation takes effect when accepted by the commander-in-chief and is announced in orders.

Sec. 1397. Vacancies in elective offices in the National Guard, not in active service, are filled by election. When vacancies occur at an election through the promotion of any officer, such vacancies may then and there be filled without further order.

Sec. 1398. Any enlisted man may be discharged before the expiration of his term of service, by order of the commanding officer of the regiment, battalion or unattached company to which he belongs, and on recommendation of his company officer, and for the following reasons:

1. To accept promotion by commission.

2. Upon removal of residence from the State, or out of the bounds of the command to which he belongs, to so great a distance that, in the opinion of such commanding officer, he cannot properly perform his military duty.

3. Upon disability established by certificate of a medical officer.

4. Upon conviction of felony in a civil court.

5. When, the commanding officer approving, two-thirds of the members of a company request, in writing, the discharge of an enlisted man. If, at a regular meeting of a company, or of a meeting called for the purpose, two-thirds of the members of a company desire by vote the discharge of one of their members, an application for the discharge of such soldier, setting forth the facts, and giving the reasons therefor, must be made by the company commander.

Sec. 1399. Any officer, non-commissioned officer or private who disobeys the orders of his superior, uses reproachful or abusive language to his superior, or misbehaves or demeans himself in an unofficer-like or unsoldier-like manner while under military orders, must be immediately arrested. If a non-commissioned officer or soldier on military duty, he must be disarmed and put under guard, and tried and punished by a court-martial, according to law and military usage.

Sec. 1400. All persons who trespass on any parade or camp ground, or in any way or manner interrupt or molest the orderly discharge of duty of those under arms, must be immediately arrested. The commander-in-chief may prohibit and prevent the sale of spirituous liquors within one mile of such parade or encampment, and also, in his discretion, all hucksters or auction sales, or gambling, may be abated as a nuisance.

Sec. 1401. If any person interrupts, molests, or insults, by abusive words or behavior, any officer or private while in the performance of his military duty, he must immediately be put under guard and kept, at the discretion of the commanding officer of the forces engaged in the performance of such duty, until the setting of the sun of the same day on which the offense was committed.

Sec. 1402. No dishonorably discharged non-commissioned officer, artificer, or member of a company discharged from the National Guard for any disgraceful cause, must be permitted to again enter any company of the National Guard unless the offense is pardoned by the commander-in-chief.

Sec. 1403. The commanding officer of any parade, review, or drill, and the officer in charge of any rendezvous, may cause the ground selected for that purpose to be marked or designated in such a manner as not to obstruct the passage of travelers on any public highway; and if any person, during the occupation of such ground for such military purpose, enters upon such ground without the permission of the officer commanding or in charge, he may be put out and kept under guard, by the order of such commander, until the setting of the sun of the same day.

Sec. 1404. Regimental, battalion and company rules of government and by-laws regularly adopted by a majority of the elected officers of such regiments and battalions, or members of companies, and approved by the commander-in-chief, may be adopted and enforced in such regiments, battalions and companies, if they are not in conflict with the laws and regulations of this State.

Sec. 1405. All fines and penalties for non-attendance upon drills, parades and inspections, legally determined and imposed under the provisions of such rules and by-laws, may be collected by action in justice's court in the name of the State of Montana; and the books and records of regiments, battalions and companies, and the proceedings under which delinquents are fined, are *prima facie* evidence of the facts therein stated.

Sec. 1406. All officers and members of the National Guard, who comply with all military duties as provided in this Title, are entitled to the following privileges and exemptions, viz: Exemption from payment of poll tax, road tax and head tax of every description; exemption from jury duty, and service on any *posse comitatus*. All officers, non-commissioned officers and members who have faithfully served in the military service of this State for the space of seven consecutive years, and receive the certificate of the adjutant general certifying the same, are thereafter exempted from further military duty, except in time of war, and the adjutant general must issue such certificate of exemption when it appears that the person applying is entitled to the same.

Sec. 1407. Each commander of a company of the National

Guard must make out a list, certified under oath before a notary public, on or before the first Monday of March in each year, of every officer, non-commissioned officer, musician and private of the company entitled to exemptions as provided by law, with the residence of each, which list must be transmitted to the assessor of the county in which such company is located: and the county assessor must thereupon note opposite the names of each person on the assessment roll the fact of such exemptions.

Sec. 1408. No officer is entitled to charge or receive any fee or compensation for administering or certifying any oaths administered or certified under the provisions of this Chapter.

Sec. 1409. The commander-in-chief is authorized and has power to establish and prescribe such rules and regulations, forms and precedents, not inconsistent with the provisions of the Codes, as he may deem proper for the use, government, and instruction of the National Guard, and to carry into full effect the provisions of the Codes relative thereto. Such rules, regulations, forms and precedents shall, from time to time, be revised as may be deemed necessary, and must be promulgated in orders, and compiled in such form as may be deemed advisable for the information of the National Guard, but each company, by a vote of a majority of the members thereof, may establish such by-laws, rules and regulations, not inconsistent with prescribed rules and regulations, as may be necessary and proper for their discipline and government.

Sec. 1410. The colors carried by organizations of the National Guard must be such as are borne by similar organizations in the United States army; and no military organization provided for by the Constitution and the laws of this State, and receiving State support, must, while under arms, either for ceremony or duty, carry any device, banner or flag of any State or nation, except that of the United States or the State of Montana.

Sec. 1411. Every officer or soldier wounded or disabled in the service of the State must have reasonable expenses paid him, and the widow and children of every officer or soldier killed in the service of the State must be suitably provided for by the Legislative Assembly.

Sec. 1412. Each company of the National Guard must, annually, have public parade and be inspected in the day time on the thirtieth day of May, in the county where a majority of such company resides. Such inspection must be conducted by officers detailed by the commander-in-chief, which officers must notify the commander of the company, battalion or regiment to be inspected, of the hour and place at which the inspection must take place.

Sec. 1413. After the inspection the inspecting officer must make a report and forward the same to the inspector general, to be by him consolidated and forwarded to the adjutant general, and if by examination by him of the muster roll and the report of the inspecting officer, the company is fully up to the standard of members, discipline and efficienc required by this Title, the adjutant general must so report to the State Board of Examiners.

Sec. 1414. The State Board of Examiners must, on receipt of report, allow to each company, annually, the sum of five hundred dollars, which must be applied to the payment of armory rent and other necessary expenses, and such board must order the State Auditor to draw a warrant on the State Treasurer in favor of the commander of each company for said sum of five hundred dollars, to be paid out of the appropriation for military purposes.

Sec. 1415. When a company is disbanded or mustered out, all money in the treasury of such company received from the State treasury must be paid to the State Treasurer, who is authorized to collect and credit the same to the fund for military purposes.

Sec. 1416. No bill or allowance authorized by the provisions of this Title must be approved by the State Board of Examiners, unless the said bill or claim is itemized, and its correctness established to the satisfaction of said board. No bill or claim must be paid unless authorized by law.

Sec. 1417. Arms, ordnance stores, quartermaster's stores, camp equipage and other military property, whether issued by the United States as the property thereof, or purchased, owned and issued by Montana, is, for all the purposes of this Title, the property of Montana, and must be used only in the discharge of military duties.

Sec. 1418. The commanding officer of each company must, at each annual inspection, return in duplicate to the adjutant general, an itemized account and statement of all public property, arms, ordnance stores and camp equipage, and of all disbursements of the money appropriated during the preceding year to said company, which account and statement must be verified by the oath of such commanding officer, and must be accompanied by the proper vouchers for such disbursements.

Sec. 1419. The publication, according to military usage, of the written or printed orders from or through regimental or battalion headquarters, by the company commander, announcing the duty to be performed, are sufficient warning to the officer or soldier directed to perform such duties. Military duty requires the attendance of commissioned officers, non-commissioned officers, and members, on all occasions of drills, and parades, and active service ordered by the commanding officer of the company, regiment, battalion, or the commander-in-chief, or provided by the company by-laws, unless excused therefrom by the officer having authority to grant such excuse; and while on such duty, or going to or returning from the same, obedience must be rendered to all rules, regulations, usages, customs and requirements of the army of the United States, and of this Title.

ARTICLE II.

COMPANIES AND THE DISTRIBUTION OF ARMS.

Section 1430. Application for leave to organize companies.
" *1431. Adjutant general must appoint some one.*
" *1432. How to organize.*
" *1433. Adjutant general to act and transmit to the commander-in-chief.*
" *1434. Company to be listed and officers commissioned.*
" *1435. Non-commissioned officers of companies.*
" *1436. Company, name and number.*
" *1437. Company roll and term of service.*
" *1438. What companies belong to the National Guard.*
" *1439. Person not to be member of two companies at same time. Removal beyond limits of county.*
" *1440. Requisition for arms and equipments.*
" *1441. Proceeding on approval of requisition.*
" *1442. Bond to be given by commander.*
" *1443. Same.*
" *1444. Same.*
" *1445. Inspection of arms, etc.*
" *1446. Repair of arms.*
" *1447. Officers elected to appear for examination before military board.*
" *1448. Candidates to be examined.*
" *1449. Applications for membership.*
" *1450. Use of arms, uniforms, etc., prohibited.*
" *1451. Commissioned officers must provide uniform.*
" *1452. By-laws must provide for drills.*
" *1453. To whom officers must report.*
" *1454. What report to contain.*
" *1455. Books must be kept showing who present at drills.*
" *1456. Cadets attached to academy or college may be commissioned.*

Sec. 1430. Whenever a sufficient number of citizens, residents of any county in this State, subject to military duty, subscribe a call for the organization of a company, the adjutant general, upon the application of such persons, must present the same to the commander-in-chief.

Sec. 1431. If such company is accepted, the adjutant general must appoint some person, resident of the county, to open a book in which to enter the names of persons so applying, and must fix a time and place of meeting for the purpose of organization, by giving fifteen days notice thereof, by publication in some newspaper, or by posting notices in at least three public places in the county.

Sec. 1432. The person appointed must:

1. Preside at such meeting and organize the same.

2. Superintend the election for commissioned officers of the company, which must be held by ballot.

3. Make out after such election a list of persons organized, a certificate of each officer elected, together with a copy of the proceedings of the meeting and a copy of his appointment and a notice of the meeting, certified by him, and transmit them to the adjutant general.

Sec. 1433. The adjutant general must, if found correct, transmit the same with his approval, to the commander-in-chief.

Sec. 1434. 1. If the commander-in-chief approve the same and the company has been organized in accordance with the provisions of law, orders and regulations, the company must be listed in the office of the adjutant general as a company of the National Guard, and the officers elected, if commissioned, hold office for the term of three years.

2. All commissioned officers of the National Guard must be commissioned by the Governor, but he may refuse to issue a commission to any officer elected or appointed, if, in his opinion, the person elected or appointed is in any way unqualified or unworthy to be an officer in the National Guard.

Sec. 1435. All company non-commissioned officers of the National Guard must be nominated by commanders of their respective companies, subject to the approval of the commanders of the regiment or battalion; and such non-commissioned officers cannot thereafter be removed or reduced in rank except as herein provided, or by the commander of the regiment or battalion, for neglect of duty or other sufficient cause.

Sec. 1436. Each company of the National Guard may adopt a distinct name; but, if attached, must be known by a particular letter or number in the regiment or battalion to which it belongs.

Sec. 1437. All persons on entering the National Guard must sign a company roll, and join for not less than three years' service.

Sec. 1438. All companies of the National Guard in existence at the time this Code takes effect are companies of the National Guard under the provisions of this Title, the officers thereof to serve the term for which they were elected, and the members to serve the time for which they enlisted. The commander-in-chief must, on the adoption of this Code, disband enough companies heretofore organized in order to comply with the provisions of this Title, so that the number of companies organized does not exceed nine.

Sec. 1439. No persons can be a member of two companies at the same time; and any member of a company who removes beyond the limits of the county may be discharged from such company; and such discharge, as in all other cases, must be announced in orders from proper authority, and copies of all orders announcing discharges must be forwarded to general headquarters.

Sec. 1440. When a company is organized, its commanding officer may make a requisition through the proper military channel for such arms, accoutrements, ammunition, clothing and stores, as are required.

Sec. 1441. If the commander-in-chief approve the requisition, he must make an order upon the back thereof, directing the issue by the adjutant general, who must immediately notify the officer making the requisition that the arms, accoutrements, and ammunition, or any portion thereof, are ready to be issued.

Sec. 1442. Thereupon, such officer must give such bonds and security as may be required by the adjutant general in twice the full value of the arms to secure the State and the company from loss on account of use or misapplication of any State property, or company funds and property. Said bond must be with two or more good and sufficient sureties, resident freeholders of the State, conditioned upon his faithful performance of all duties, and accounting for all property and moneys, both State and company funds, of which the company commander, as ex officio treasurer, shall be custodian, and all commanding officers in service at the time of the adoption of this Code must give like bonds.

Sec. 1443. Said bonds being to his satisfaction, and on receiving duplicate receipts from such company officer, the adjutant general must make the issue.

Sec. 1444. The adjutant general must file one copy of such receipts in his office, and transmit the other to the commander-in-chief.

Sec. 1445. All arms, equipments and military stores, books, accounts and records of all kinds, are subject to examination by the inspectors and ordnance officers, or any officer designated by the commander-in-chief or any other commanding officer for that purpose.

Sec. 1446. If such officer finds any of such property out of repair, injured or defective, he must immediately communicate the facts to the commander-in-chief, through the proper channel, who, if the damages are not repaired and the defects and losses supplied within a reasonable time, must order the same to be done under the direction of some officer, and the vouchers for the expense thereof, when audited by the State Board of Examiners, must be paid on the warrant of the State Auditor, out of the appropriation for military purposes.

Sec. 1447. 1. Every elected officer of the National Guard must, upon his election or re-election to any office in the National Guard, appear before the military board for examination as to his qualifications for the office to which he has been elected or re-elected.

2. The officer duly appointed to preside at any election must, immediately after declaring the result of such election, notify the officer or officers elected that they must appear before the military board for examination, when notified by that board.

3. If the officer elected or re-elected and duly notified does not appear before the said board when summoned by them, he declines his commission and there must be another election ordered by the adjutant general. The filing of a proper certificate by said board with the adjutant general that the officer has failed to pass an examination, or declined to appear before the board when notified, is sufficient for ordering a new election.

Sec. 1448. The board must thoroughly examine the candidate for commission as to his military and general qualifications, and if, in the opinion of a majority of the board, he is duly qualified, the fact must be certified to the commander-in-chief. The board must examine the candidate for a commission as to his knowledge in the following:

1. The prescribed tactics.

2. The rules and regulations governing the United States army and the National Guard of Montana.

3. The revised articles of war.

4. The laws of Montana relative to the National Guard.

5. Forms of military orders, correspondence, records, and also as to general qualifications.

Sec. 1449. Applications or propositions for membership in any company of the National Guard must only be made at a regular meeting or assemblage of the company, and the names of applicants must be posted in a conspicuous place in the company quarters or armory, until the next succeeding regular meeting or assemblage of the company, at which time, and not before, the applicants may be balloted for by the company.

Sec. 1450. 1. No soldier must wear or use, except when on military duty, or by special permission of his commanding officer, any uniform or other article of military property belonging to the State, or to the company of which he is a member.

2. No officer in charge of public property for military use must transfer any portion thereof either as a loan or permanently, without the authority of the next superior commander.

3. Although an officer who has receipted for public property is personally and officially accountable therefor, yet all commanding officers are also responsible that the best arrangements are made for the security and safety of all public property within their commands, and for the strict observance of the regulations in regard to its care, removal, use, or issue.

It is, therefore, their duty to see that none but faithful and reliable persons are employed for its care, or allowed control over or access to it.

4. No parade or voluntary service must be performed by any regiment, battalion or company, under arms, or in uniform, without the approval of the next superior authority.

Sec. 1451. Any commissioned officer of the National Guard refusing or neglecting to provide himself with a suitable uniform forfeits his commission.

Sec. 1452. The by-laws of each company of the National Guard must provide stated days for drill and military instruction, and must fix the hour of the day at which the company must assemble therefor, and prescribe at least one hour for drill and instruction, and every officer and enlisted man of the company is required to be present at the drill and instruction, and participate therein, and must not be excused therefrom without good cause; and any failure, without good cause, to be present thereat, subjects him to court-martial, and upon conviction must be discharged from the service and fined not less than five or more than fifty dollars. The proceedings of such court may be reviewed, as in other cases.

Sec. 1453. Company commanders of unassigned companies must report directly to the adjutant general, and company commanders belonging to a battalion or regiment must report directly to the battalion or regimental commander, whose consolidated report must be forwarded to the adjutant general; and all returns of the company, battalion or regimental commanders must be made once a month, and, as nearly as practicable, on the last day of each month.

Sec. 1454. Such returns must be in such form as the adjutant general may prescribe, and must show the percentage of the members of each company who have attended each stated drill during the preceding month, duplicates of which in all cases must be forwarded to the adjutant general, and in case such percentage for the whole month is less than seventy-five per cent. of the strength of the company, the commander-in-chief may, in his discretion, disband the same, and require all the public property in its possession to be delivered to the proper officer and be returned to the arsenal.

Sec. 1455. Commanders of companies must keep a book, in which must be entered the names and number of officers, non-commissioned officers, and privates, respectively, present at each drill, and the excuses of absentees marked approved or otherwise. These books must be carefully preserved, and when filled, forwarded to the adjutant general's office.

Sec. 1456. The person or authorities in charge of any academy or college under whose supervision or instruction a company equal in numbers to a company of the National Guard, of students, or cadets receives military instruction, may apply to the Governor to have the officers for the time being commissioned as other similar officers of the National Guard are, and to have such company or companies of students or cadets attached to the National Guard, to be assigned thereto as the Governor may direct. The officers and men of such company or companies may be armed and equipped as other similar organizations of the National Guard; such company or companies must for all other purposes be deemed part of the National Guard, and entitled to the same privileges, and subject when in active service to the same penalties. Before any military stores of any kind are issued for the use of such company or companies a bond for the return of the same must be executed by the person or authorities having charge of such academy or college, with good and sufficient sureties to be approved by the adjutant general. Such company or companies are styled "cadets" while serving in the National Guard. They are not subject to court-martial, except when in actual service, but at all other times must be amenable only to the rules and regulations of such academy or college. Such companies are not entitled to the annual allowance mentioned in Section 1414, of this Code.

ARTICLE III.

REGIMENTS AND BATTALIONS.

Section 1465. What to consist of.
" 1466. May elect field officers.
" 1467. Field officers, how elected.
" 1468. Must be commissioned by commander-in-chief.
" 1469. Field officers, number and designation.
" 1470. Necessary expenses allowed.

Sec. 1465. A regiment of the National Guard consists of not less than six nor more than ten companies. Any less number of companies than six constitutes a battalion.

Sec. 1466. When six companies are duly organized they may form a regiment, and the members thereof may elect the field officers provided for in this Title.

Sec. 1467. All field officers of a regiment must be elected by the commissioned officers comprising the regiment or battalion, except staff officers, in the presence of the inspector general, or some other officer of the Governor's staff detailed for that purpose, and who must preside at such election and certify to the commander-in-chief the result thereof, except as in this Section provided. Said commissioned officers may also designate their choice by written ballots to be mailed to the commander-in-chief and opened and counted by him on the day fixed for such election, and filed and preserved by him, and he must declare the result of the election according to the majority of such ballots.

Sec. 1468. The commander-in-chief must thereupon commission the officers so elected, unless in his opinion the appointment would be detrimental to the good of the service, in which case he must order a new election.

Sec. 1469. The field officers of a regiment are one colonel, one lieutenant colonel, and one major. A cavalry regiment may have two majors. The field officers of a battalion, when composed of less than six companies and more than two, are one lieutenant colonel and one major. When composed of two companies, then one major only. The field officers of a battalion are elected in the same manner as field officers of a regiment.

Sec. 1470. The necessary expenses of regimental and battalion headquarters, including clerk hire and all actual expenses, not to exceed one hundred dollars annually, must be allowed by the State Board of Examiners, and be payable quarterly out of the military fund.

ARTICLE IV.

DUTIES OF STAFF OFFICERS.

Section 1480. Duties of adjutant general.
" *1481. His report.*
" *1482. Bond and salary.*
" *1483. Duties of inspector general.*
" *1484. Duties of ordnance officer.*
" *1485. Salary and bond.*
" *1486. Duties of other officers.*

Sec. 1480. It is the duty of the adjutant general:

1. To keep on file in his office all reports made to him.

2. To keep an account, in the manner directed by the commander-in-chief, of all moneys received or disbursed by him.

3. To prepare and keep all blank forms required for the service.

4. To attest all commissions issued to military officers.

5. To authenticate with his official seal all papers issued from his office. Which official seal he is hereby authorized to have and keep in his office.

6. To make out and transmit the annual returns prescribed by the Act of Congress of March second, eighteen hundred and three, which must be made in duplicate, one of which must be delivered to the commander-in-chief and the other transmitted to the secretary of war of the United States.

7. To distribute all orders of the commander-in-chief, and to see that all orders, relative to carrying into execution and perfecting any system of military discipline established by law, are enforced.

8. To have the custody of all books, accounts and military stores, and under the direction of the commander-in-chief to make such disposition of the military property as the necessities of the service require.

9. To cause to be distributed to officers of regiments, battalions and companies of the National Guard, the arms, ammunition, ordnance stores, quartermaster stores, flags, standards and guidons and camp equipage required to be issued.

10. To make biennally, on or before the first Monday in November, a report to the commander-in-chief, containing abstracts from the returns of the commanding officers.

11. To cause so much of the militia laws as are in force to be printed in pamphlet form and distributed, one copy to each commissioned and non-commissioned officer, county clerk and county assessor in the State, and prepare and cause to be furnished to all officers and each company, at the expense of the State, all necessary blank books, blank forms and notices, required under the provisions of this Title.

12. To provide and issue, for artillery and rifle practice of the National Guard, such ammunition and other necessary material for such practice as is recommended by the military board and approved by the commander-in-chief.

13. To attend the commander-in-chief at reviews and parades, and to perform such other duties as are required by the provisions of this Title, and as the commander-in-chief may direct.

Sec. 1481. He must report to the Governor a statement:

1. Of all moneys received or disbursed by him since his preceding report.

2. An account of all arms, accoutrements, ammunition, and military property belonging to the State, from what source received, and to whom issued.

3. Of the present condition of all such property under his charge.

4. The number and condition of the National Guard, and of the enrolled militia of the State. He is ex officio chief of staff, quartermaster general and commissary general.

Sec. 1482. The adjutant general must give a bond in the sum of two thousand dollars, with sufficient sureties, to be approved by the commander-in-chief and filed in the office of the Secretary of State. His salary is five hundred dollars per annum, payable quarterly out of the military fund in the State treasury.

Sec. 1483. It is the duty of the inspector general:

1. To inspect, semi-annually, in the months of April, and September, or as often as required by the commander-in-chief, the arsenals, depots, and all military stores contained therein and the arms, uniforms, equipments, military stores, property, books, accounts and records of all kinds of each company, battalion, regiment or officer of the National Guard.

2. To require the commander of each company, regiment, battalion, or officer at any time to account for the property belonging to the State or the United States, which he has received or which has been turned over to him.

3. To report after each inspection, to the adjutant general, the quantity and condition of such property in such arsenals and depots and in the hands of the companies, battalions, regiments and officers.

Sec. 1484. It is the duty of the ordnance officer:

1. To keep and have the custody of all arsenals and depots in which military property of any kind is stored.

2. To keep accurate accounts of military property of all kinds received and distributed by him..

3. To report to the adjutant general, biennially on or before the first day of October, all military property in his possession and the amount received and disbursed by him.

Sec. 1485. His salary is three hundred dollars, payable quarterly, out of the military fund. and he must execute an official bond in such sum as the commander-in-chief directs, to be approved by him.

Sec. 1486. The inspector general, the surgeon general, and the ordnance officer must perform such other duties as the commander-in-chief directs.

CHAPTER IV.

CALLING AND DRAFTING THE MILITIA INTO ACTUAL SERVICE.

Section 1495. Militia, when and by whom it may be called into actual service.
“ *1496. Same.*
“ *1497. Call, how made.*
“ *1498. Same.*
“ *1499. Same.*
“ *1500. Organization of companies, etc., and election of officers.*
“ *1501. Proclamation for election.*
“ *1502. Commander-in-chief may assign volunteers to companies or battalions already in active service.*
“ *1503. When draft may be ordered.*
“ *1504. Who to superintend draft.*
“ *1505. Persons drafted to rendezvous.*
“ *1506. Election of officers.*
“ *1507. Refusing to rendezvous, penalty for.*
“ *1508. Companies, how attached.*
“ *1509. Drafted men may be enrolled in existing companies.*
“ *1510. Substitutes.*
“ *1511. Same.*
“ *1512. Same.*
“ *1513. Rules governing conduct of troops when called out to suppress insurrection, etc.*
“ *1514. Duration of commissions of officers called into actual service.*

Section 1515. Vacancies occurring in actual service, how filled.
" 1516. Same.
" 1517. Nominations to fill vacancies, for personal bravery in battle, etc.
" 1518. Rules to govern militia when in actual service.
" 1519. Pay of officers and privates when in actual service.

Sec. 1495. In case of war, insurrection, or rebellion, or of resistance to the execution of the laws of this State, or upon the call or requisition of the President of the United States, or upon the call of any officer of the United States army commanding a division, department or district in Montana, or upon the call of any United States marshal in Montana, or of the chief executive of any city, or of any sheriff, the commander-in-chief is authorized to call into active service any portion of the National Guard or enrolled militia.

Sec. 1496. In case of the absence of the commander-in-chief from the seat of government, or if it is impossible to immediately communicate with him, the civil military officer making the requisition for troops may, if he deem the danger imminent and not admitting of delay, serve a copy of such requisition, together with a statement of the Governor's absence or the impossibility of immediately communicating with him, upon the adjutant general, or in his absence upon the inspector general, who is authorized to exercise, with respect to calling out the troops, the powers conferred in this Title upon the Governor; but if the call is disapproved by the Governor, the troops so called into service must be immediately disbanded.

Sec. 1497. Such call must be made by an order issued and directed to the commanding officer of the company, battalion or regiment, which is called into service, designating the particular troops called, the time and place of rendezvous, and the officer to whom they must report.

Sec. 1498. Every officer receiving such order must rendezvous and report for duty as herein directed; and every officer commanding an organized company or battalion of the National Guard, on receiving such order, must immediately notify the same to each individual of his command, by personal notice or by publication in some newspaper, or by the posting in public places of the county or counties from which the call is made.

Sec. 1499. Such officer must attend in person, or by deputing an officer of the organized militia in his place, at the place of the rendezvous, and take the names of all volunteers for service under such call.

Sec. 1500. If the number of such volunteers is sufficient to form one or more companies or battalions, he must immediately call and superintend the election of the officers of such companies or battalions.

Sec. 1501. A proclamation of the call of such election, made by the officer calling it, at the place of rendezvous, is a sufficient notice.

Sec. 1502. The commander-in-chief has authority, if he deem it expedient, to direct that a portion of the volunteers so presenting themselves be assigned to companies or battalions already in active service, whose numbers are less than the full complement.

Sec. 1503. If the number of the volunteers presenting themselves at the place of rendezvous is insufficient to satisfy the call of the commander-in-chief, the adjutant general must promptly proceed to draft from the enrolled militia a sufficient number of men to satisfy the call; and this draft must be made by putting the names of all the enrolled militia of the county or counties from which the order directs the forces to be raised, into a box, and drawing therefrom a sufficient number of names to satisfy the call.

Sec. 1504. The adjutant general or some officer appointed by the commander-in-chief must be present, and superintend the drafting of the enrolled militia under any call by the commander-in-chief; but his presence is not necessary to give validity to the proceedings.

Sec. 1505. The persons drafted must be summoned by some officer appointed for that purpose by the adjutant general, in the manner prescribed by law for the summoning of witnesses in civil cases, the time and place of the rendezvous, as ordered by the adjutant general, being stated in the summons.

Sec. 1506. As soon as a sufficient number of drafted men have appeared at the rendezvous to form a company or companies, they must proceed to the election of their company officers.

Sec. 1507. Any member of the National Guard who neglects or refuses to rendezvous when ordered out by the commander-in-chief, is guilty of disobedience of orders, and may be tried and punished by a court-martial; and any member of the enrolled militia who refuses or neglects to rendezvous when drafted, is subject to a penalty of not less than fifty nor more than three hundred dollars, to be recovered by an action brought by the county attorney, in the name of the State, upon the certificate of the officer appointed to make the draft, before any court of competent jurisdiction in the county from which such persons were drafted, and the fine recovered must be paid into the State treasury to the credit of the general fund.

Sec. 1508. Any company of the enrolled militia drafted and organized may, by direction of the commander-in-chief, be enrolled and mustered into any battalion of the National Guard having less than six companies.

Sec. 1509. Drafted men of the enrolled militia not organized into companies, may, at the discretion of the commander-in-chief, be enrolled and mustered into any existing company of the National Guard or enrolled militia not having the full number authorized by law, and which has already been called into actual service.

Sec. 1510. Any person called or drafted into service may furnish as a substitute any person fit for military duty who has not been called or drafted into service.

Sec. 1511. When any person drafted for service offers, at or after the time of rendezvous, a suitable substitute, and such substitute consents in writing to subject himself to all the duties, fines, forfeitures and punishments to which his principal would have been subject had he personally served, he must be accepted by the officer making such draft.

Sec. 1512. The person whose substitute is so accepted is not subject to draft during the term of service of the substitute.

Sec. 1513. The conduct of troops when called out to suppress an insurrection or rebellion, to disperse a mob or enforce the laws, is provided for in the Penal Code.

Sec. 1514. The commission of any officer called into active service continues until he is discharged by the order of the commander-in-chief.

Sec. 1515. All vacancies of officers and non-commissioned officers in active service must be filled by appointment or promotion; the first by the commander-in-chief, and the second by the commanding officer of the battalion or of the company, in case such company forms no part of any battalion.

Sec. 1516. In filling vacancies of commissioned officers the commander-in-chief must, as a general rule, promote by seniority or appoint on the recommendation of their superior officers, those in active service, and in any case of departure from this rule the commander-in-chief must report his reasons for such departure to the Senate at its first regular session thereafter.

Sec. 1517. The commanding officer of troops in active service may nominate to any vacancy a person distinguished for his bravery or service in siege or battle, and if the commander-in-chief commissions some other person than the one so nominated, he must report his reasons to the Senate at the first session thereof, and if the Senate in either of the foregoing cases disapprove of the reasons given, the commission so given is vacated, and the commander-in-chief must immediately proceed, with the advice and consent of the Senate, to fill such vacancy.

Sec. 1518. The rules and regulations established by Congress for the government of the army of the United States are applicable to and govern the militia of this State, when in active service.

Sec. 1519. Officers and privates, while on active duty in the service of the State, receive the same pay as the officers and privates of the United States army of similar grade serving on the Pacific coast, the same to be audited by the State Board of Examiners upon the pay roll properly made up.

CHAPTER V.

COURTS-MARTIAL AND OF INQUIRY.

Section 1525. Commander-in-chief appoints all courts-martial.
" *1526. Day fixed and duration of court.*
" *1527. Oath of members of court.*
" *1528. Persons to be designated to serve summons.*
" *1529. Power of the court.*
" *1530. Proceedings and sentence, how approved.*
" *1531. Power to administer oaths and to punish.*
" *1532. Revision and approval of sentence.*
" *1533. Fines, how collected.*
" *1534. No action against members of court-martial.*
" *1535. Courts of inquiry, how ordered and governed.*
" *1536. Sheriff and constables must serve papers.*
" *1537. Penalty for disobedience of orders.*
" *1538. Penalty for refusing to pay over money.*
" *1539. Fines and penalties.*

Sec. 1525. The commander-in-chief must appoint all courts-martial for the trial of all officers and enlisted men, and such courts-martial are organized in like manner and subject to the rules and regulations governing courts-martial in the United States army, so far as the same may be applicable, and not inconsistent with the laws of this State, and the rules, regulations and forms established by the commander-in-chief.

Sec. 1526. The commander-in-chief must fix the day on which the court shall convene, and, when convened, it may adjourn from time to time as is necessary for the transaction of business; but the whole session of the court from the day on which it convenes until its dissolution, shall not exceed three weeks, and in case any vacancy happens in the court, or a new court is required, the commander-in-chief may fill such vacancy or order a new court.

Sec. 1527. Each of the officers constituting such court must, before he enters on his duties as such, take the following oath: "I,————, do swear (or affirm) that I will, well and truly, try and determine, according to evidence, all matters between the State of Montana and any person or persons who may come before the court-martial to which I have been appointed," and such oath may be taken by him before any officer authorized to administer oaths in the State, which officer must administer the same without fee or reward.

Sec. 1528. Such court must direct a non-commissioned officer, or other fit person or persons to be by him designated, to summon all delinquents and parties accused to appear before the court at the time and place appointed, which service must be personal or by leaving such summons at the residence of such delinquent and parties accused. Such non-commissioned officer, or other fit person or persons so designated, must make a return in the same manner and with like effect as is required in the service of a summons in civil action.

Sec. 1529. The court, when organized, is empowered to try all offenses, delinquencies and deficiences that occur in a regiment, battalion or company of the National Guard, or any officer thereof, for which it shall have been appointed; and the said court has the power to impose and direct to be levied all the fines or penalties which may be imposed under the provisions of this Title.

Sec. 1530. The proceedings and sentence of any such court must, without delay, be delivered to the commander-in-chief, who must approve or disapprove of the same within fifteen days thereafter, and must give notice of his approval or disapproval to the president thereof, or the commander-in-chief may remit or mitigate the penalty or fine.

Sec. 1531. Courts-martial have the same power to compel the attendance of witnesses, when summoned by them, to administer oaths, to preserve order in and about the court room during sessions, and to punish for contempt, as the judges of the District Court have under the laws of this State. They have power, on conviction, to punish by depriving officers of rank by expulsion or dismissal, or by such other and usual military fines and penalties as is customary with courts-martial in the army of the United States.

Sec. 1532. The commander-in-chief must revise the proceedings and approve or disapprove the sentence of such court-martial, and must direct the execution of such sentence, or mitigate the punishment, or may remit the sentence of the person convicted.

Sec. 1533. For the purpose of collecting fines or penalties imposed by courts-martial, the president of any such court must make a list of all such fines and penalties, and of the persons against whom they have been imposed, and must, within fifteen days after the fines and penalties have been imposed, issue a warrant under his hand directed to any sheriff or constable of the county, commanding him to levy and collect such fines, together with costs, upon and out of any property of the person against whom the fine or penalty was imposed, and such warrant may be executed and renewed in the same manner as executions issued from justices' courts are executed and renewed. All property except the property exempt from execution and the homestead is subject to sale under such warrant.

Sec. 1534. No action may be maintained against any member of a court-martial, or officer or agent acting under his authority, on account of an imposition of a fine, or the execution of a sentence, on a person not liable to military duty, if such person has been summoned and notified in writing of the charges preferred against him, and has failed to appear and show his exemption before the court.

Sec. 1535. Courts of inquiry may be ordered by the commander-in-chief, and are governed by the same rules as similar courts in the army of the United States.

Sec. 1536. Every sheriff and constable must serve all orders, subpoenas, or process delivered to him for that purpose by any member of a court-martial.

Sec. 1537. In time of peace every commissioned officer, for disobedience of orders, neglect, or ignorance of duty, unofficer-like conduct, or disrespect to a superior officer, or for neglecting to comply with any of the requirements of this Title, must be arrested and brought to trial before a court-martial, which may, on conviction, sentence him to be cashiered, incapacitated from holding military commission, fined to an amount not exceeding one hundred dollars, or reprimanded, or may sentence him to all or either of such fines and penalties, in its discretion.

Sec. 1538. Every commissioned officer refusing to pay over moneys in his hands, which came into his possession by virtue of his position as an officer of the National Guard, may be tried and cashiered, or otherwise punished therefor, by a court-martial.

Sec. 1539. Every commissioned officer and every enlisted man is, on due conviction, subject for the following offenses to the fines and penalties thereto annexed:

1. Every commissioned officer for non-attendance at any parade or encampment, and every such officer or enlisted man neglecting or refusing to obey the orders of his superior officers on any day of parade or encampment, or to perform such military duty or exercise as may be required, or departing from his colors, post or guard, or leaving his place or ranks without permission, a fine not more than one hundred nor less than five dollars.

2. Every enlisted man, for non-appearance when duly warned or summoned at a troop, battery or company drill or parade, a fine of two dollars for each offence, and in case of a troop parading mounted, a fine of six dollars for each offence, at a regimental or battalion parade, not less than three nor more than six dollars for each offence, and at a place of rendezvous when called into actual service in case of war, insurrection or invasion, or imminent danger thereof, a sum not exceeding twelve months' pay, nor less than one month's pay; and for disobedience of orders or disrespectful or insubordinate conduct, a fine not exceeding fifty dollars; and also, in the discretion of the court, the offender may be dishonorably discharged from the command to which he belongs.

3. Every commissioned officer, or non-commissioned officer,

for neglecting or refusing to obey an order or warrant to him lawfully given or directed, or to make a proper return, or neglecting or refusing, when required, to summon a delinquent before a court-martial, or to duly return such summons, a fine of not more than one hundred nor less than five dollars.

TITLE V.

PUBLIC INSTITUTIONS.

Chapter I. The Insane.
" II. The Deaf, Dumb, and Blind.
" III. The State Library.
" IV. Other State institutions.

CHAPTER I.

THE INSANE.

Article I. Insane asylum.
" II. General Provisions.
" III. Examination and committal on insane persons.

ARTICLE I.

INSANE ASYLUM.

Section 1550. State insane asylum.
" 1551. Control of.
" 1552. Powers and duties of board of commissioners of.
" 1553. Board must contract.
" 1554. Board may reject all bids.
" 1555. Care of insane must be provided for.
" 1556. What the contract must provide.
" 1557. Contract must specify rate.
" 1558. Contractor must give bond.
" 1559. Must make quarterly report.

Sec. 1550. The State insane asylum is established and located at ——— and until its management and control are provided for by law, the care of the insane of the State is as prescribed in this Chapter.

Sec. 1551. The Governor, the Secretary of State, and the Attorney General constitute the State board of commissioners for the insane, of which the Governor is president, and the Secretary of State, the secretary.

Sec. 1552. The powers and duties of such board are as follows:

1. To make rules and regulations for their own government not inconsistent with the laws of the State.

2. To provide by contract for the care, custody, maintenance and treatment of the insane, in a safe and suitable building for that purpose, which is known as the State insane asylum.

3. To make inquiry into the condition of the asylum and to see that the patients are properly cared for in respect to clothing, food, medical attendance, and that they have proper apartments.

4. To make a report biennially to the Legislative Assembly giving a statement of the receipt and expenditures, the condition of the asylum, the number of patients under treatment and such matters as may be advisable.

5. To keep a record of their proceedings, which must be open at all times to the inspection of any citizen.

Sec. 1553. The board is hereby authorized to enter into a contract for the care and maintenance of the indigent insane, and to let the same to the lowest responsible bidder, and such board must publish for three weeks in a newspaper published at the seat of government of the State, for proposals for such care and maintenance.

Sec. 1554. The board has the right to reject any and all bids, and to make a contract, in case such a contract can be made at a less price than any of the bids made therefor under such publication. Such contract must not be continued beyond the period of two years, or beyond the completion of the State asylum for the insane.

Sec. 1555. Under such contract, whether made upon the bids or otherwise, the care and maintenance of the indigent insane must be provided for.

Sec. 1556. The contract must provide that the contractor furnish all necessary attendance and assistants required by the medical and all other departments in said asylum, and that there be furnished well ventilated, properly warmed and suitable rooms or apartments, and good and wholesome food and comfortable clothing for the patients of the asylum, as well as the necessary medicine and medical attendance, and that the contractor pay all the expenses of the same.

Sec. 1557. The contract must also specify the rate per head per week for such care and maintenance and medical treatment of said patients.

Sec. 1558. The contractor must give a bond in such a sum as may be approved by the board for the faithful performance of his obligations under the contract, which bond must be approved by the board, filed with the Secretary of State.

Sec. 1559. The contractor must make a quarterly report to the board of the number of patients treated, cared for and discharged from the asylum during the quarter, and upon receipt of such report the board must report the same to the Board of Examiners, who must require the State Auditor to draw a warrant upon the State Treasurer in favor of the contractor for the amount due him, payable out of the general fund in the State treasury.

ARTICLE II.

GENERAL PROVISIONS.

Section 1565. Board may send patient to friends.
" *1566. May contract with some other institution.*
" *1567. Idiotic persons are considered insane persons.*
" *1568. Discharge of patient.*
" *1569. Indigent person discharged must be furnished with money and clothes.*
" *1570. Postal rights of insane patients.*
" *1571. Same.*
" *1572. Postoffice box must be provided.*
" *1573. Name of correspondent must be posted.*
" *1574. Copy of law posted in asylum.*
" *1575. Insane convicts.*
" *1576. Non-resident insane must not be received.*
" *1577. Insane person not indigent must be paid for.*

Sec. 1565. The board may, at the expense of the State, when satisfied it will be for the best interest of any insane person, send him to friends outside of the State.

Sec. 1566. The board may, when satisfied it will be for the best interest of any insane person in the State, send him to some other institution, with its consent, outside the State, and the expense of sending and supporting him at such institution must be paid by the State, providing such person is indigent.

Sec. 1567. Idiotic persons are considered as insane persons.

Sec. 1568. The board must cause to be discharged from the asylum any patient, upon the written report of any person appointed by the board to examine into the condition of such patient, that such patient is in fit condition to be at large. Such written report must be filed and kept in the office of the board, and every insane person, on recovery, must be discharged from the asylum or place of confinement.

Sec. 1569. Any indigent person about to be discharged from the asylum must be furnished with twenty dollars in money and a suit of comfortable clothes, including hat, shoes and socks, for which the contractor may be allowed on presenting the claim to the Board of Examiners, the amount paid.

Sec. 1570. The patients of all insane asylums, or any place where the insane are kept or confined in this State, must each be allowed to choose one person, in no way connected with such asylums or place to whom he may write letters whenever and whatever he may desire, and over the letters to such person there must be no censorship exercised or allowed by any asylum official, contractor, employe or other person. The postal rights of such patients as to the persons chosen by them, must be as free and unrestricted as are those of any resident of the State. Every patient has the right, once in three months, to choose a different person for his correspondent.

Sec. 1571. The contractor or person in charge of every asylum or other place where the insane are confined in this State must furnish to every patient thereof, suitable material for writing, inclosing, sealing, stamping and mailing letters at least twice a week.

Sec. 1572. All such letters must be dropped by the writers thereof, accompanied by an attendant when necessary, into a post office box provided by the State at the insane asylum, and kept in some place easy of access to all patients; the attendant is required in all cases to see that these letters are directed to the patient's correspondent, and if it is not so directed it must be held subject to the disposal of the person in charge and the contents of these boxes must be collected once every week by an authorized person and by him placed in the United States mail for delivery.

Sec. 1573. The contractor, or person in charge, must register and post in some place in the asylum the name of the person chosen as the patient's correspondent, and by what patient chosen, and the contractor, or the person in charge, must inform each of the persons chosen of that fact, and request him to write on the outside of the envelope of every letter he writes the patient, his name, and all the letters bearing such superscription on the envelope, must be delivered without opening or reading, to the patient.

Sec. 1574. A printed copy, in large type, of the next preceding four sections, must be kept posted in every room of every asylum or other place where the insane are confined in this State.

Sec. 1575. Insane convicts must be received into the asylum and returned to the State prison again, as provided in the Penal Code.

Sec. 1576. No insane person, non-resident of this State, must be received into the asylum unless he became insane within this State.

Sec. 1577. None but indigent persons must be received into the insane asylum unless their care and maintenance is paid or guaranteed by the parents, children or guardians of such person, and all money received by the contractor for the care and maintenance of such persoas, must be accounted for in his settlement with the board.

ARTICLE III.

EXAMINATION AND COMMITTAL OF INSANE PERSONS.

Section 1590. Examination, before whom.

Section 1591. Two witnesses.
" 1592. Two physicians.
" 1593. Witnesses, duty of.
" 1594. Physicians, duty of.
" 1595. Certificate of physicians.
" 1596. To be made on forms, etc.
" 1597. Action of judge. Commitment.
" 1598. Delivery of insane persons at asylum.
" 1599. Money found on insane person.
" 1600. Fees of physicians.
" 1601. Cost of examination and commitment.

Sec. 1590. Whenever it appears by affidavit to the satisfaction of a magistrate of the county that any person within the county is so far disordered in his mind as to endanger health, person, or property, he must issue and deliver to some peace officer for service a warrant directing that such person be arrested and taken before any district judge within the county for examination.

Sec. 1591. When the person is taken before the judge, he must issue subpoenas to two or more witnesses, best acquainted with such insane person, to appear and testify before him at such examination.

Sec. 1592. The judge must also issue subpoenas for at least two graduates of medicine to appear and attend such examination.

Sec. 1593. At the examination the persons subponaed must appear and answer all questions pertinent to the matter under investigation.

Sec. 1594. The physicians must hear such testimony, and must make a personal examination of the alleged insane person.

Sec. 1595. The physicians after hearing the testimony and making the examination, must, if they believe such person to be dangerously insane, make a certificate, under their hand, showing as near as possible:

1. That such person is so far disordered in his mind as to endanger health, person, or property.

2. The premonitory symptoms, apparent cause or class of insanity, the duration and condition of the disease.

3. The nativity, age, residence, occupation, and previous habits of the person.

4. The place from whence the person came, and the length of time he has resided in this State.

Sec. 1596. The certificate must be made in the form prescribed by, and, if they can be had, upon blanks furnished by the Board of the Commissioners for the Insane.

Sec. 1597. The judge, after such examination and certificate made, if he believes the person so far disordered in his mind as to endanger health, person, or property, must make an order that he be confined in the insane asylum. A copy of such order must be filed with and recorded by the clerk of the District Court of the county. The clerk must also keep in convenient form an index book showing the name, age, and sex of each person so ordered to be confined in the insane asylum, with the date of the order, and the name of the insane asylum in which the person is ordered to be confined. No fees must be charged by the clerk for the performing of any of the duties provided for by this section.

Sec. 1598. The insane person, together with the order of the judge and certificate of the physicians, must be delivered to the sheriff of the county, and by him must be delivered to the officer in charge of the insane asylum.

Sec. 1599. Any moneys found on the person of an insane person at the time of arrest must be certified to by the judge and sent with such person to the asylum, there to be delivered to the person in charge of the asylum. If the sum exceed one hundred dollars the excess must be applied to the payment of the expenses of such person while in the asylum; if the sum is one hundred dollars, or less, it must be kept and delivered to the person when discharged, or applied to the payment of funeral expenses if the person dies at the asylum.

Sec. 1600. The physicians attending each examination of an insane person are allowed five dollars each, to be paid by the county treasurer of the county where the examination was had, on the order of the Board of County Commissioners.

Sec. 1601. The costs of the examination, committal and taking an insane person to the asylum must be paid by the county in which he resides at the time he is adjudged insane. The sheriff must be allowed the actual expenses incurred in taking an insane person to the asylum, and no more.

CHAPTER II.

DEAF, DUMB AND BLIND.

Section 1621. Deaf, dumb and blind asylum established.
“ *1622. Board of commissioners, who compose.*
“ *1623. Board must contract for care and maintenance.*
“ *1624. Time allowed for education may be extended.*
“ *1625. Expense must be paid out of State treasury.*
“ *1626. Report must be made biennially.*
“ *1627. Feeble minded and imbecile children included.*

Sec. 1621. The Deaf, Dumb and Blind Asylum is hereby established and located at ———, and has for its object the education of the deaf, dumb and blind, and until its management and control are provided by law, the care of such persons is prescribed by this Chapter.

Sec. 1622. The Governor, Secretary of State, and attorney general constitute a State board of commissioners for the deaf, dumb and blind, of which board the Governor is president and the Secretary of State is secretary.

Sec. 1623. It is the duty of such board and they are hereby authorized to contract with any institution in the United States for the education of any deaf mute, or blind child between the ages of eight and eighteen years, who is a resident of the State, and whose parents or guardian have no means to educate such child, at the expense of the State for a term of six years if necessary and at an expense not exceeding three hundred dollars per annum.

Sec. 1624. If in the judgment of the board a child so provided for has ability to make use of such education, the time may be extended as may be advisable to the board.

Sec. 1625. The expense of such education, as well as the traveling expenses to and from such institution and necessary clothing for such child, must be paid out of the treasury of the State quarterly, or at such times as are necessary under the contract.

Sec. 1626. The board must report biennially to each Legislative Assembly the number, name, and place of residence of each child mentioned in this Chapter, the institution attended and the amount of money paid for the same.

Sec. 1627. The provisions of this Chapter extend to and include feeble minded and imbecile children between the ages named.

CHAPTER III.

THE STATE LIBRARY.

Section 1635. What constitutes State library.
“ *1636. Under control of Board of Trustees.*
“ *1637. Powers and duties of board.*
“ *1638. Librarian.*
“ *1639. Duties of librarian.*
“ *1640. Who may take books.*
“ *1641. When to be returned.*
“ *1642. Books taken by State officers.*
“ *1643. Liability for injuries to books.*
“ *1644. Library fund.*
“ *1645. Library time to be kept open.*
“ *1646. Salary of librarian.*
“ *1647. Bond of librarian.*
“ *1648. Historical department.*
“ *1649. Expenses for freight, etc., how paid.*
“ *1650. Other expenses, how paid.*
“ *1651. Appropriation.*
“ *1652. Historical Society of Montana.*

Sec. 1635. The books, pamphlets, papers, maps, charts, manuscripts, paintings, engravings, and other property belonging to the State, in the Montana library, and all that may be added thereto, constitute the State library of Montana.

Sec. 1636. The State library is under the control of a Board of Trustees, consisting of the chief justice and associate justices of the Supreme Court, the Secretary of State and State Auditor, of which board the chief justice is president and the Secretary of State secretary.

Sec. 1637. The powers and duties of the board are as follows:

1. To make rules and regulations not inconsistent with law for their government and for the government of the library.

2. Until otherwise provided for to rent suitable rooms for the library, and to provide necessary furniture, fuel, and lights for the same.

3. To appoint a librarian and to prescribe his duties not otherwise provided for.

4. To sell or exchange duplicate copies of books and to pay the money arising therefrom into the library fund.

5. To keep in order and repair the books and property in the library.

6. To draw from the State treasury at any time when needed all moneys therein belonging to the library fund.

7. To report to the Governor biennially a statement of all transactions.

Sec. 1638. The librarian holds his office for the term of two years, unless sooner removed by a majority vote of the trustees.

Sec. 1639. It is the duty of the librarian:

1. To be in attendance at the library during office hours.

2. To purchase books, maps, engravings, paintings and furniture for the library, under the direction of the trustees.

3. To number and stamp all books and maps belonging to the library, and to keep a catalogue thereof, which must be printed and distributed under the supervision of the trustees.

4. To have bound all books and papers that require binding.

5. To keep a register of all books and property added to the library, and of the cost thereof.

6. To keep a register of all books taken from the library.

7. To establish and maintain a system of domestic and foreign exchange of books, and to obtain from the Secretary of State such numbers of all State publications as may be sufficient to meet the demands of the system established.

Sec. 1640. Books may be taken from the library by the members of the Legislative Assembly during the sessions thereof, and by other State officers at any time. Law books may be taken from the library to any court room and returned the same day. All persons are permitted to examine the library and the books therein.

Sec. 1641. Books taken by members of the Legislative Assembly must be returned at the close of the session; and before the State Auditor draws his warrant in favor of any member of the Legislative Assembly for his last week's salary, he must be satisfied that such member has returned all books taken by him and paid for any injuries thereto.

Sec. 1642. The State Auditor, if notified by the librarian that any officer has failed to return books taken by him within the time prescribed by the rules, and after demand made, must not draw his warrant for the salary of such officer until the return is made, or three times the value of the books, or of any injuries thereto. has been paid to the librarian.

Sec. 1643. Every person who injures or fails to return any book taken is liable to the librarian in three times the value thereof, if such book is not replaced by a new one.

Sec. 1644. The State library fund consists of the fees collected and paid into the State treasury by the Secretary of State, and twenty per cent. of all fees paid into the State treasury by the clerk of the Supreme Court, and any appropriation made by the Legislative Assembly.

Sec. 1645. During the sessions of the Legislative Assembly, and of the Supreme Court, the library must be kept open every day from nine o'clock A. M. until nine o'clock P. M., and at other times as the trustees may direct.

Sec. 1646. The annual salary of the librarian is twelve hundred dollars, payable quarterly out of the general fund of the State treasury.

Sec. 1647. The librarian must execute an official bond in the sum of one thousand dollars.

Sec. 1648. There must be established and maintained with the library a historical department, the object of which is to collect, preserve and publish the natural and political history of the State. For this purpose the librarian must procure as far as possible all writings, histories, letters, lectures, essays, maps, charts and books relating to the territory or State and its history, and preserve the same. In like manner he must procure specimens of the minerals, flora, and fauna of the State, and cause the same to be labeled with the date of procuring the same and the location where found; and in case of voluntary contributions the name of the donor must be added thereto. He must cause the same to be placed in boxes or cases suitable for examination, and retain the same within the library. The librarian must procure full copies of all newspapers heretofore or hereafter published in the territory or State, and cause the same to be bound in suitable volumes and deposit and keep the same in the library. In like manner he must procure at least one copy of all pamphlets, magazines, and books published or written in the territory or State for the use of the library. He must cause the pamphlets and magazines to be bound in volumes of suitable size for preservation.

Sec. 1649. The librarian is authorized to pay reasonable reight, express and mail charges upon books or other documents sent to the library by the general or State governments, or by private parties taking proper vouchers therefor, and upon the presentation of such vouchers to the Board of Examiners and the allowance thereof, the same must be paid out of the State treasury from the State library fund.

Sec. 1650. All accounts for the rent of library rooms, for fuel, light and other necessaries, and for the purchase of books, furniture and fixtures must be made out by the librarian and approved by the State Board of Examiners and paid out of the State treasury out of the library fund.

Sec. 1651. There is appropriated annually for the salary of the Librarian the sum of twelve hundred dollars, and for the purchase of books, furniture, and fixtures the further sum of one thousand dollars.

Sec. 1652. Whenever the Historical Society of Montana has donated and turned over to the State, all books, papers and other property owned by such society, the Board of Trustees of the State library must take charge of the same and may make all proper rules in regard to the custody and management of the same.

CHAPTER IV.

OTHER STATE INSTITUTIONS.

Section 1660. University of Montana and other educational institutions.
" 1661. State prison.

Sec. 1660. The control and management of the University of Montana, School of Mines, the Agricultural College of Montana, and the State Normal School, are provided for in Title III., Part III., of this Code.

Sec. 1661. The control and management of the State prison and State Reform School is provided for in Part III., of the Penal Code.

TITLE VI.

PUBLIC WAYS.

Chapter I. Public waters.
" II. Highways and roads.

CHAPTER I.

PUBLIC WATERS.

Article I. General provisions respecting public waters.
" II. Navigation.

ARTICLE I.

GENERAL PROVISIONS RESPECTING PUBLIC WATERS AND OBSTRUCTIONS THEREIN.

Section 1675. What waters are public ways.

Sec. 1675. Navigable waters and all streams of sufficient capacity to transport the products of the country are public ways for the purposes of navigation and such transportation. But the capacity of a stream to float logs, timber or lumber alone is not sufficient to make such a stream navigable or a public way.

ARTICLE II.

NAVIGATION.

Section 1680. Steamers meeting.
" *1681. Steamers overtaking.*
" *1682. Steamers to carry signals at night.*
" *1683. Penalties, what amount.*
" *1684. Vessels at anchor to show lights.*
" *1685. No recovery for collision in case of neglect.*
" *1686. Vessels to carry what boats.*
" *1687. Penalty what amount.*
" *1688. Racing, penalty for.*
" *1689. Penalties, how recovered.*

Sec. 1680. When steamers meet each must turn to the right, so as to pass without interference.

Sec. 1681. A steamer going in the same direction with another steamer ahead of it, must not approach or pass the other within the distance of ten yards; and the steamer ahead must not be so navigated as unnecessarily to bring it within ten yards of the steamer following.

Sec. 1682. When any steamer is running in the night time her master must cause her to carry two conspicuous lights; one exposed near her bow and the other near her stern; the latter must be at least twenty feet above her deck.

Sec. 1683. Every master or other person in charge who violates any of the provisions of the preceding sections, incurs a penalty of two hundred and fifty dollars for each offense.

Sec. 1684. Whenever any vessel is at anchor in the night time in any of the harbors or ports within the jurisdiction of this State, the master or other person at the time in charge of the vessel, must cause a conspicuous light shown in her rigging at least twenty feet above her deck, and another light from her taffrail, under the penalty of fifty dollars for each neglect.

Sec. 1685. Neither the master or owner of any vessel can recover damages for injuries to the same or to himself by a collision growing out of a non-compliance upon its part with the provisions of this Article.

Sec. 1686. Every vessel propelled by steam, navigating any waters of this State and carrying passengers, must be provided with one life preserver for each person on board, and with two row boats sufficient to carry twenty-five persons each. All which boats must be attached in such a manner that they can be launched at any time for immediate use.

Sec. 1687. The master and owners and each of them, of any vessel not provided with boats, as required in the preceding section, are subject to a penalty not exceeding two hundred and fifty dollars.

Sec. 1688. If the master or other person in charge, of a steamer navigating any of the waters of this State and used for the conveyance of passengers, or if the engineer or other person in charge of the boiler or other apparatus for the generation of steam does, for the purpose of increasing speed or excelling any other vessel in speed, suffer to be created an undue or an unsafe quantity of steam, he is subject to a penalty of five hundred dollars.

Sec. 1689. The penalties given by this Article may be recovered by the county attorney of any county bordering on the water where the offense was committed or the penalty incurred, to whom notice is first given, and when recovered are to be paid into the treasury of the county. Any judgment recovered hereunder is a lien on the vessel against whose owners or master it is recovered.

CHAPTER II.

HIGHWAYS AND ROADS.

Article *I. Enumeration of highways.*
" *II. Rules and restrictions respecting the use of highways.*
" *III. Powers and duties of highway officers.*
" *IV. Highway taxes.*
" *V. Road supervisors and labor on highways.*
" *VI. Duty of assessor.*
" *VII. Opening and repairing highways.*
" *VIII. Drains and ditches.*
" *IX. Purchase of implements.*
" *X. Removal of obstructions from highways and repairing bridges.*
" *XI. Inspection of highways and work.*
" *XII. Apportionment of highway funds.*
" *XIII. Vacating, opening, laying out, or changing highways.*
" *XIV. Private roads.*
" *XV. Erecting and maintaining bridges.*
" *XVI. Ferries.*
" *XVII. Miscellaneous provisions.*

ARTICLE I.

ENUMERATION OF HIGHWAYS.

Section *1700.* *What are highways.*
" *1701.* *All highways continue such until abandoned.*
" *1702.* *Width.*
" *1703.* *County commissioners must order or dedication must be made.*
" *1704.* *Road register.*

Sec. 1700. All highways, roads, streets, alleys, courts, places, and bridges, laid out or erected by the public, or now traveled or used by the public, or if laid out or erected by others, dedicated or abandoned to the public, or made such by the partition of real property, are public highways.

Sec. 1701. All public highways, once established, must continue to be public highways until abandoned or by order of the board of commissioners of the county in which they are situated, or by operation of law, or judgment of a court of competent jurisdiction.

Sec. 1702. The width of all public highways, except bridges, alleys, and lanes, must be at least sixty feet. The width of all private highways and by-roads, except bridges, must be at least twenty feet. Nothing in this Article must be so construed as to increase or diminish the width of either kind of highways already established or used as such.

Sec. 1703. A highway laid out and worked, and used as provided in this Chapter, must not be vacated or cease to be a highway until so ordered by the board of commissioners of the county in which said road may be located; and no route of travel used by one or more persons over another's land shall hereafter become a public road or by-way by use, or until so declared by the board of commissioners or by dedication by the owner of the land affected.

Sec. 1704. The clerk of the board of commissioners must include in the minutes of the board of commissioners all proceedings of the board relative to each road or road district, including orders for laying out, altering, and opening roads; he must also keep a road book, in which must be entered the number and name of each public highway in the county, a general reference to its terminal points and course, also the date of the filing of the petition or other papers, a memorandum of every subsequent proceeding in reference to it, with the date thereof and the volume of the book where it is recorded.

ARTICLE II.

RULES AND RESTRICTIONS RESPECTING THE USE OF HIGHWAYS.

Section *1710.* *The public easement.*
" *1711.* *Adjoining owner may construct sidewalk.*

Sec. 1710. By taking or accepting land for a highway, the public acquire only the right of way, and the incidents necessary to enjoying and maintaining the same, subject to the regulations in this and the Civil Code provided.

Sec. 1711. Any owner or occupant of land may construct a sidewalk on the highway along the line of his land, subject, however, to the authority conferred by law on the board of commissioners and the road supervisors; and any person using such sidewalk with mule, horse, or team, without permission of the owner, is liable to such owner or occupant in the sum of five dollars for each trespass, and for all damages suffered thereby.

ARTICLE III.

POWERS AND DUTIES OF HIGHWAY OFFICERS.

Section 1715. Road districts.
" *1716. Powers of the Board of County Commissioners.*
" *1717. Duties of road supervisors.*

Sec. 1715. The board of commissioners of the several counties must divide their respective counties into suitable road districts, and may change the boundaries thereof.

Sec. 1716. The board of commissioners of the several counties of the State have general supervision over the highways within their respective counties. They must,

1. Provide a suitable book and have recorded therein a description of all the highways mentioned in Section 1704, of this Chapter.

2. Cause to be surveyed, viewed, laid out, recorded, opened and worked such highways as are necessary for public convenience, as in this Chapter provided.

3. Cause to be recorded as highways such roads as have become such by usage or abandonment to the public. Also all such streets and roads as have been or may be declared such under Section 848, of the Code of Civil Procedure.

4. Abolish or abandon such as are not necessary.

5. Contract, agree for, purchase, or otherwise acquire the right of way over private property for the use of public highways, and for that purpose institute or require the county attorney to institute proceedings under Title VII., Part III., of the Code of Civil Procedure, and to pay therefor from the district road fund of the particular district.

6. In their discretion, let out by contract the construction, maintenance, and improvement of the highways, and the construction, maintenance and repair of bridges or other adjuncts of highways, when the amount of work to be done exceeds one hundred dollars.

7. Levy a property road tax.

8. Order and direct road supervisors specially in regard to work to be done on particular highways in their districts.

9. In their discretion cause to be erected and maintained on the highways they may designate mile-stones, or posts, and guide-posts properly inscribed.

10. Cause the road tax collected each year to be apportioned to the several road districts entitled thereto, and kept by the treasurer in separate funds.

11. Audit all claims on the funds of the respective road districts when required to pay for right of way, or work, or improvements thereon.

Sec. 1717. Road supervisors, under the direction and supervision of the board of commissioners, must:

1. Take charge of the highways within the respective districts.

2. Keep them clear from obstructions and in good repair.

3. Cause banks to be graded, bridges and causeways to be made where necessary, keep the same in good repair, and renew them when destroyed.

4. Make quarterly reports under oath of the number of days they have been employed during the preceding three months, the number of days' labor performed on the roads and highways in their respective districts, by whom performed and the wages paid per day; filing therewith a receipt or receipts, signed by each or all persons who have performed labor, stating the number of days of labor performed and the amount received for the same; also, the amount and value of the materials and kind thereof.

5. Receive for his services, from money in the treasury belonging to his road district, a sum not to exceed three dollars per day for each day's service performed by him, not to exceed one hundred days in any one year, to be audited and ordered paid by the board of commissioners.

ARTICLE IV.

HIGHWAY OR ROAD TAXES.

Section 1725. General highway fund.
" *1726. Commutation of highway taxes.*
" *1727. Same.*
" *1728. Highway fund, how apportioned.*
" *1729. All contracts in violation void.*
" *1730. Liability of county commissioners.*
" *1731. County treasurer must pay claims.*

Sec. 1725. There must be levied and collected on all taxable property in the county not less than one mill nor more than two mills on the dollar for road purposes, also a special road tax of three dollars on each able-bodied man between the ages of twenty-one and forty-five years residing in each road district.

Sec. 1726. Any person liable to pay special road tax may work out such tax under the direction of the road supervisor of the district wherein he resides, and must be allowed for such work the sum of three dollars per day. The several county treasurers must collect all road taxes, both special and general, levied in each year, as required by law for the collection of revenue.

Sec. 1727. Any person producing the road supervisor's certificate for labor done, or for material furnished on any road or bridge by order of the road supervisor must be allowed the same on his special road tax.

Sec. 1728. All moneys collected under the provisions of this Article belong to the several road districts.

Sec. 1729. All contracts, authorizations, allowances, payments and liabilities to pay, made or attempted to be made in violation of this Chapter, are absolutely void, and must never be the foundation or basis of a claim against the treasury of such county. And all officers of such county are charged with notice of the condition of the treasury of said county, and the extent of the claims against the same.

Sec. 1730. All county commissioners, and any other officer authorizing or aiding to authorize, or auditing or allowing any claim or demand upon or against the treasury, or any fund thereof, in violation of any of the provisions of this Chapter, are liable in person and upon their official bonds, to the person or persons damaged by such illegal authorization to the extent of his loss by reason of the non-payment of his claim.

Sec. 1731. The treasurer paying any claim authorized, allowed, or audited in violation of this provision, is liable on his official bond to refund the same to the county treasury.

ARTICLE V.

ROAD SUPERVISORS.

Section 1735. Road supervisors, how appointed.
" *1736. Bond.*
" *1737. Vacancies, how filled.*
" *1738. Compensation.*
" *1739. Must notify every person to perform work.*
" *1740. Every person must pay or work.*
" *1741. Supervisor may procure team, etc.*
" *1742. Board of commissioners to provide blanks.*
" *1743. Blanks, what to contain.*
" *1744. Road supervisors to collect and report.*
" *1745. Commissioners to examine blanks and stubs.*
" *1746. Road supervisors liable.*
" *1747. Additional bond.*
" *1748. Money collected, disposition of.*
" *1749. Road supervisor must report.*
" *1750. May be removed.*

Sec. 1735. All road supervisors must be appointed by the Board of County Commissioners at their March session, and serve for the term of one year and until their successors are appointed and qualified.

Sec. 1736. They must give such bonds as the board of commissioners may direct.

Sec. 1737. A vacancy occurring in the office of road supervisor must be filled by the board of commissioners.

Sec. 1738. The road supervisor may be allowed as compensation the sum of three dollars for each day while employed in performing the duties required by this Chapter, to be allowed by the board of commissioners on presentation to them of vouchers showing the number of days actually employed, sworn to by the supervisor.

Sec. 1739. The road supervisor must notify every person within the road district subject to highway labor, to perform one day's work in each year upon the public highways, and if any person subject to such labor, after three days notice, either personally or by writing left at his usual place of abode by the supervisor or any other person under his direction, neglects or refuses to pay the said three dollars to the supervisor, or to attend by himself or suitable substitute at the time and place designated by the supervisor, or having attended, refuses to obey the directions of the supervisor, or passes his time in idleness or inattention to labor or duties assigned him, every such delinquent becomes liable for the amount of his special road tax in money.

Sec. 1740. Every person notified to labor on the public highways under the provisions of this Article must be required to immediately pay the sum of three dollars to the supervisor or appear at the place appointed by the supervisor at the hour of eight o'clock in the forenoon, with such necessary tools and implements as the supervisor may direct, and work industriously and diligently, doing at least eight hours' work faithfully in each day at such work and in such manner as directed by the supervisor.

Sec. 1741. The supervisor may procure from any resident of his district a team of horses, mules or oxen, and wagon, cart, scraper, or plow, to be employed or used on the roads under his direction, and must allow such person a reasonable compensation therefor, not to exceed five dollars per day for the use of such team, wagon, cart, scraper, or plow and driver.

Sec. 1742. For the purpose of collecting said special road tax the board of commissioners of each county must provide blank printed receipts for such special road tax, with proper stubs containing memorandum of names, amount, and date attached.

Sec. 1743. Such blank receipts as may be necessary must be delivered by the clerk of the board of commissioners to the several road supervisors, and each must receipt to the clerk for the number of blanks received by him.

Sec. 1744. The road supervisor must give the proper receipt for each special road tax collected by him and make the proper memorandum on the corresponding stub; and he must, on the first Monday in each month, pay over to the county treasurer, all moneys collected by him during the preceding month, and take the treasurer's receipt therefor, and return to the board of commissioners at each regular session, or at any other time required by the board, all stubs of receipts given, all blank receipts still on hand and the receipts of the treasurer for the money paid him.

Sec. 1745. The board of commissioners must compare the number of blanks received by the road supervisor, with his stubs and blanks on hand, and ascertain if they tally, and also if the money collected has been paid to the county treasurer; and if the same be found correct, the road supervisor must deliver up his remaining blank reueipts, and therefor the clerk must give him, on the order of the board of commissioners, a certificate of settlement.

Sec. 1746. The road supervisor is liable on his official bond for the non-performance of his duties in collecting said special road tax and for money collected by him.

Sec. 1747. The board of commissioners has the power to require any road supervisor to give additional bonds for performing his duties and paying over money collected on said special road tax, in such sums as the board may designate.

Sec. 1748. All special road taxes collected must be paid into the county treasury to the credit of the road fund of the road district in which the sum is collected.

Sec. 1749. The road supervisors of the respective road districts must make out quarterly, or when required by the board of commissioners at any other time, a true and correct statement of the number of days' work performed by him in accordance with the provisions of this Article, duly sworn to and filed with the county clerk, and if found correct by the board of commissioners, they must pay the same by warrant drawn on the road fund of the respective road districts.

Sec. 1750. If any road supervisor neglects or fails to perform the duties required by law, the board of commissioners may remove him and appoint a suitable person road supervisor for the unexpired term.

ARTICLE VI.

DUTY OF ASSESSOR.

Section 1755. *When county assessor must collect poll tax.*
" 1756. *List of persons employed.*
" 1757. *Assessor must pay money to treasurer.*
" 1758. *Assessor must return list.*
" 1759. *Cities and towns excepted.*

Sec. 1755. If any person required to pay the special road tax mentioned in the preceding sections of this Chapter has not property subject to taxation, the county assessor must collect the same at the time of making the assessment, and if it be not paid at the time, and the person owing the same is in the employment of any other person, the assessor must deliver to the employer a written notice, stating the amount of tax owing by such employe, and from the time of receiving said notice the employer is liable to pay said tax, and the tax so paid may be deducted by such employer from the amount then due or to become due to such employe.

Sec. 1756. Any person having in his employment any other person liable to the tax of three dollars above mentioned must, at the request of the assessor, give to him a complete list of all the persons so employed, and if any person neglects or refuses to furnish said list for five days after demand made to furnish it, the person so neglecting or refusing is liable for the tax, and the assessor must proceed to levy the same as in cases where persons neglect or refuse to list their property.

Sec. 1757. The assessor must pay over to the county treasurer all moneys collected as a special or road tax, and take a receipt therefor, and deliver to the treasurer a list of persons who have paid the same, or for whom it has been paid, and also a list of all the persons liable to pay said tax, but who are delinquent.

Sec. 1758. The treasurer must thereafter collect the tax from such as are delinquent, if in his power, and if not, he must return a list of all persons who have failed to pay to the board of commissioners, with his annual report of taxes collected. The assessor must also return a list of the persons who have neglected or refused to return a list of the persons in their employ, and the amount for which each has been assessed, and the treasurer must collect the amount thereof as in other cases of assessment and levy. The assessor has the same power to enforce the collection of such road tax as is prescribed in Chapter X., Title IX., Part III., of this Code.

Sec. 1759. The general road tax and the special road tax mentioned in this Chapter must not be levied or collected from the inhabitants or property of incorporated cities or towns, which by ordinance levy such taxes for the streets and alleys thereof.

ARTICLE VII.

OPENING AND REPAIRING HIGHWAYS OR ROADS.

Section 1765. Duty of road supervisors.
" *1766. Direction of board of commissioners.*
" *1767. May employ persons, etc.*
" *1768. Must keep correct accounts.*
" *1769. Quarterly report, what to contain.*
" *1770. County commissioners must examine report.*

Sec. 1765. The road supervisor must open or cause to be opened when ordered by the board of commissioners, all public highways which have been laid out and established according to law in any part of his road district, and must keep the same in good repair, and if such labor is not sufficient, the board of commissioners is authorized to appropriate from the general road fund any amount they may see fit for the use and benefit of such district.

Sec. 1766. Whenever the board of commissioners direct any road supervisor to repair any public highway in his district, or to construct any new highway therein, it is the duty of the road supervisor to proceed without unnecessary delay, to repair or construct said highway.

Sec. 1767. The road supervisor is empowered to employ suitable laborers, teams and implements, and to contract as to the price to be paid therefor, which must be at the rates provided in Sections 1741 and 1726.

Sec. 1768. He must keep a correct account of all such labor, and give to the person performing it, or furnishing any animals or implements, a certificate stating the number of days' work performed and the price agreed upon therefor, and the number of days any animals or implements have been used and the price to be paid therefor, not exceeding the limits above prescribed.

Sec. 1769. The road supervisor must make and file with the county clerk on or before each quarterly meeting of the commissioners, or monthly, if required by them, a detailed statement, showing:

1. The names of all persons employed to work on the public highways, and the number of days each person has worked, and the place or places where the work was done and the price to be paid therefor.

2. The number of teams and implements used, and of whom employed, and the place or places where they worked, or were used, and the price agreed to be paid therefor.

3. The number of days the supervisor has been employed in attending to the duties of his office.

The above statement must be sworn to by the supervisor and filed with the county clerk, with the account for his services rendered.

Sec. 1770. The board of commissioners, at the first quarterly meeting, or at any special meeting, held after filing the statement mentioned in the next preceding section, must examine the same, and if found correct, cause an order to be drawn on the county treasurer, against the road fund, for the amount due any road supervisor for his services. Upon the presentation of any certificate issued by road supervisors, as provided in the next preceding section, and a verification by the owners thereof, as in other cases of claims against the county, the board of commissioners must cause to be issued to the owner or holder of such claim, a warrant for the amount thereof, drawn on the county treasurer against the road fund.

ARTICLE VIII.

DRAINS AND DITCHES.

Section 1775. Road supervisor to construct drains and ditches.
" 1776. Damages.

Sec. 1775. The road supervisor has authority to open or construct drains and ditches for the making and preserving of roads or highways, doing as little injury as may be to the adjoining lands, and any person stopping or obstructing the drains or ditches so made forfeits the sum of twenty dollars, to be recovered by the supervisor in a civil action in any court of competent jurisdiction.

Sec. 1776. If any person feels aggrieved by the act of any supervisors, he may make complaint in writing to the board of commissioners, who must allow just damages and pay the same out of the road fund.

ARTICLE IX.

PURCHASE OF IMPLEMENTS.

Section 1780. Road supervisor may purchase implements.
" 1781. Duties to preserve.

Sec. 1780. Road supervisors may, under the direction of the board of commissioners, purchase any plows, scrapers, or other implements necessary for the use of the road district, and pay for the same out of the road fund of said district.

Sec. 1781. The supervisor must preserve such tools and implements, and must not allow the same to be used except on public highways.

ARTICLE X.

REMOVAL OF OBSTRUCTIONS FROM HIGHWAYS OR ROADS, AND REPAIRING BRIDGES.

Section 1786. Road supervisor to remove obstructions.
" 1787. Expense of same, how paid.
" 1788. Encroachment on highway, duty of road supervisor.
" 1789. Notice to occupant.
" 1790. Duty of road supervisor.
" 1791. Suit to remove.
" 1792. When road supervisor may remove.

Section 1793. Those obstructing highways liable for damages.
" *1794. Water storers liable for damages.*
" *1795. Other persons liable for damages.*
" *1796. Penalty for not removing obstructions.*
" *1797. Removal of trees.*
" *1798. Driving over bridges.*
" *1799. Injury to ornamental trees.*
" *1800. Notice to non residents.*
" *1801. County attorney must prosecute.*

Sec. 1786. If at any time during the year any highway becomes obstructed by snow, or from any other cause, or any bridge needs repairing, or becomes dangerous for the passage of teams or travelers, the supervisor of the road district upon being notified thereof, must forthwith cause such obstruction to be removed or bridge repaired, for which purpose he must immediately order out such number of inhabitants of his district as may be necessary to remove such obstruction or repair such bridge; and all persons so ordered out are, after having received notice, subject to the same restrictions and liable to the same penalties as if ordered out under Section 1739 of this Title.

Sec. 1787. In all cases when any person has performed labor on the public highways in removing obstructions or repairing bridges, as required in the next preceding section, the supervisor must give such person a certificate specifying the amount of extra labor so performed, which certificate may be transferred and received in the discharge of the labor of any other person within the same district, to the amount of labor specified in such certificate, or may be received from the holder in satisfaction of labor on the roads in such district at any subsequent year for the amount of labor specified therein, or may be presented to the board of commissioners and allowed by them as are other bills presented against the county.

Sec. 1788. If any highway duly laid out or erected is encroached upon by fences, buildings or otherwise, the road supervisor of the district may, orally or in writing, require the encroachment to be removed from the highway.

Sec. 1789. Notice must be given to the occupant or owner of the land, or person causing or owning the encroachment, or left at his place of residence, if he be known to the person giving such notice, and reside in the county; if not, it must be posted on the encroachment, specifying the breadth of the highway, the place and extent of the encroachment, and requiring him to remove the same within ten days.

Sec. 1790. If the encroachment is not removed or commenced to be removed, and the removal not diligently prosecuted, prior to the expiration of the ten days from the service or posting the notice, the one who caused, owns, or controls the encroachment forfeits ten dollars for each day the same continues unremoved. If the encroachment is such as to effectually ostruct and prevent the use of the highway for vehicles, the road supervisor must forthwith remove the same.

Sec. 1791. If the encroachment is denied, and the owner, occupant or person controlling the matter or thing charged with being an encroachment, refuses either to remove or permit the removal thereof, the road supervisor must commence in the proper court an action to abate the same as a nuisance; and if he recovers judgment, he may, in addition to having the same abated, recover ten dollars for every day such nuisance remained after notice, and also his costs in said action. The board of commissioners may at any time order the supervisor to forthwith remove any such encroachment without commencing any action.

Sec. 1792. If the encroachment is not denied, but is not removed for five days after the notice is complete, the road supervisor may remove the same at the expense of the owner, occupant or person controlling the same, and recover his costs and expenses, as also for each day the same remained after notice was complete, the sum of ten dollars, in an action for that purpose.

Sec. 1793. Whoever obstructs or injures any highway, or diverts any watercourse thereon, or drains water from his land upon any highway to the injury thereof by means of ditches or dams, is liable to a penalty of ten dollars for each day such obstruction or injury remains, and must be punished as provided in Section 644, of the Penal Code.

Sec. 1794. Any person storing or distributing water for any purpose, who permits the water to overflow or saturate by seepage any highway to the injury thereof, must, upon notification of the road supervisor of the district where such overflow or seepage occurs, repair the damages occasioned by such overflow or seepage; and should such repair not be made within a reasonable time by such person, the road supervisor must make such repairs, and recover the expense thereof from such person in an action at law.

Sec. 1795. All persons excavating irrigating, mining, or drainage ditches across public highways are required to bridge said ditches at said crossing, and upon neglect to do so the road supervisor of that road district must construct the same and recover the cost of constructing from such person by action.

Sec. 1796. Any person may notify the occupant or owner of any land from which a tree or other obstruction has fallen upon any highway, to remove such tree or obstruction forthwith. If it is not so removed the owner or occupant is liable to a penalty of one dollar for every day thereafter till it is removed and the cost of removal.

Sec. 1797. Whoever cuts down a tree so that it falls int any highway must forthwith remove the same, and is liable to a penalty of ten dollars for every day the same remains in such highway.

Sec. 1798. Road supervisors must, when ordered by the commissioners so to do, put upon bridges under their charge notices that there is "five dollars fine for riding or driving on the bridge faster than a walk." Whoever thereafter rides or drives faster than a walk on such bridge is liable to pay five dollars for each offense.

Sec. 1799. Whoever digs up, cuts down, or otherwise maliciously injures or destroys any shade or ornamental tree on any highway, unless the same is deemed an obstruction by the road supervisor and removed under his direction, forfeits one hundred dollars for each tree.

Sec. 1800. When notice is required to be served upon non-resident land owners under any of the provisions of this Chapter, such notice is served by publication, as authorized by the board of commissioners; and for all purposes non-resident land owners upon whom personal service cannot be made within the county must be treated as non-consenting land owners.

Sec. 1801. The county attorney, on complaint of the road supervisor or any other person, must prosecute all actions under the provisions of this Chapter by a suit in the name of the State, and all penalties and forfeitures must be paid into the road fund of the district.

ARTICLE XI.

INSPECTION OF HIGHWAYS OR ROADS AND WORK.

Section 1806. Board of commissioners may order inspection.
" *1807. Compensation.*
" *1808. Report.*

Sec. 1806. The board of commissioners may by order direct any member of said board to inspect the condition of any highway or bridge in the county, and all work done thereon before payment therefor.

Sec. 1807. The member of said board may receive for the time actually and necessarily employed in such service the sum of five dollars per day, which sum must be in full payment for mileage expenses and per diem for the service aforesaid, and is audited and allowed in the same manner as any other claim against the county.

Sec. 1808. The member performing such service must at the next regular meeting of the board, present and file a written report of such inspection.

ARTICLE XII.

APPORTIONMENT OF HIGHWAY ROAD FUND.

Section 1812. County commissioners must apportion when.

Sec. 1812. The board of commissioners must, at their regular meeting in March, after having received a sum sufficient to pay all outstanding indebtedness, and such further sums as in their judgment may be needed for special purposes from the general road fund, apportion the remainder among the several road districts of their county, equitably, having reference to the condition of the highways or roads in the several districts.

ARTICLE XIII.

VACATING, OPENING, LAYING OUT, OR CHANGING HIGHWAYS OR ROADS.

Section 1818. Petition of freeholders.
" *1819. Character of petition.*
" *1820. Three viewers to be appointed.*
" *1821. Qualifications and duty of viewers.*
" *1822. Report of viewers.*
" *1823. Compensation.*
" *1824. Hearing of the report.*
" *1825. Opening of roads.*
" *1826. Damages, how determined.*
" *1827. Acceptance of award.*
" *1828. Payment of expenses.*
" *1829. Plat filed, notes and report of surveyor must be recorded.*
" *1830. Notice of the opening to be posted.*
" *1831. Growing crops to be respected.*
" *1832. Clerk to notify supervisor.*
" *1833. Instrument or decree to be recorded.*
" *1834. Railroad and ditch crossings.*
" *1835. Removal of fences.*
" *1836. Subdivision or section lines to be followed.*
" *1837. Board may change lines.*

Sec. 1818. Any ten freeholders of a road district, taxable therein for road purposes, may petition, in writing, the Board of County Commissioners to alter or discontinue any highway or to lay out a new highway therein. When a highway is petitioned for upon the dividing line between two counties, the same course must be pursued as in other cases, except that a copy of the petition must be presented to the Board of County Commissioners of each county, who must appoint viewers to act jointly, and report to their respective boards the action of such viewers.

Sec. 1819. The petition must set forth and describe particularly the highway to be abandoned, discontinued, altered, or constructed, and if the same is to be altered, laid out, or constructed, the general route thereof over what lands, who are the owners thereof, whether such of them as can be found consent thereto, and if not the probable cost of the right of way where such consent is not had, the necessity for, and the advantages of the proposed road.

Sec. 1820. Upon filing such petition the board of commissioners must appoint three viewers to view any proposed alteration of an old or of opening a new road, and submit to the board an estimate of the cost of the change, alteration, or opening, including the purchase of the right of way, and their views of the necessity thereof.

Sec. 1821. The road viewers must be disinterested citizens of the county, but not petitioners; they must be sworn to discharge their duties faithfully; must view and lay out the proposed alteration or new highway over the most practicable route; notify the resident, owner or agent of land over which it passes of the proposed route; ascertain whether the resident owners consent thereto, and the amount, if any, they claim or demand for the right of way over the same; estimate the actual damage to any land over which it passes and the cost of any bridges or grading necessary; the necessity for and public convenience to be subserved by the highway, and whether the opening thereof or change therein proposed should be made.

Sec. 1822. When the view of the proposed alteration or new highway is completed, the viewers must report to the board of commissioners:

1. The course, termini, length, and probable cost of construction of the proposed highway.

2. The estimate of damage to the owner of any land over which it is proposed to run the highway.

3. The names of land owners who consent to give the right of way, and their written consent thereto.

4. The names of land owners who do not consent, and the amount of damage claimed by each, but when there are non-resident land owners, and no agent upon the land upon whom notice can be served, such non-resident land owner must be considered as non-consenting land owners unless their written consent is obtained.

5. Such other facts bearing upon the subject, of importance, to be known by the Board of County Commissioners.

6. They may also, in their discretion, or by order of the board of commissioners, report upon the feasibility and cost of any other route than the one petitioned for which would subserve the same purposes, and also report as to the necessity of a greater or the practicability of a less width of road than petitioned for.

Sec. 1823. The viewers must be paid not to exceed three dollars each per day for their services out of the road fund of the district through which the road passes.

Sec. 1824. The board of commissioners at the next meeting after the filing of the report or at the time when the report is filed, if then in session, must fix a day for hearing the same: must notify the owners of land not consenting to give the the right of way of the hearing, by having written notice served on them personally, or on the occupant or agent of the owner: or if neither the owner, agent of the owner, or occupant can be so notified, by reason of non-residence or other cause, then by posting notices, one at a conspicuous place on the land, or left at the owner's, agent's or occupant's residence, and one at the court house, ten days prior to the day fixed for the hearing, and must on the day fixed for the hearing, or to which it may be postponed or adjourned, hear the evidence and proof from all parties interested for and against the proposed alteration or new road, ascertain and by order declare the amount of damage awarded to each non-consenting land owner, and declare the report of the viewers to be approved or rejected.

Sec. 1825. If the board approve the report, and there are no non-consenting land owners, the highway must, by order, be declared a public highway, and the road supervisor ordered to open the same to the public, and if the board order it, to require the county surveyor to survey the same and plat it, and file his field notes with the clerk of the board for which the surveyor may receive five dollars per day for the time actually employed. The board of commissioners, upon making each and every order establishing the location or alteration of any highway must order the amount of damages sustained by each and every person owning or claiming lands or any improvements thereon and affected thereby, as finally fixed and assessed by them, to be set apart in the treasury, out of the proper fund, to be paid to the proper owner or claimant, if known, and to be kept for the owner or claimant, if unknown, and to be paid to him or her upon showing or establishing their right or title to such lands or improvements. Any moneys set apart as herein provided for, must be returned to the fund from which it was set apart, if not paid to or accepted by the proper owner or claimant. If the awards are all accepted the road must be declared a public highway, and be opened as before provided.

Sec. 1826. The damages must be determined by ascertaining the benefits and damages accruing to any person by reason of altering, changing, or laying out such road, and the sum estimated as benefits must be deducted from the sum estimated as damages, for the amount of damages awarded.

Sec. 1827. If any award of damages is not accepted within ten days from the date of the award, it shall be deemed rejected by the land owners. The board must, by order, direct proceedings to procure the right of way to be instituted by the county attorney of the county under and as provided in Title VII, Part III., of the Code of Civil Procdure, against all non-accepting land owners, and when thereunder the right of way is procured, the road must be declared a public highway, and opened as hereinbefore provided.

Sec. 1828. All awards by agreement, ascertainment by the board or by the proper court, and all expenses of viewing, surveying, laying out, or altering any road must be paid out of the road fund on the order of the board of commissioners.

Sec. 1829. If a highway is opened or altered, the final report of the viewers, including the plat, field notes, and report of the surveyor, must be recorded in the office of the county clerk in a book kept for that purpose.

Sec. 1830. If a highway is ordered to be altered or opened, the board of commissioners must cause notices thereof to be posted at three public places along the line of said highway, stating that said highway will be opened and worked, after sixty days from the date of posting said notices.

Sec. 1831. No highway must be ordered opened through fields of growing crops, or along a line where crops would thereby be exposed to stock until the owner thereof has sufficient time to harvest and care for such crops.

Sec. 1832. When any highway is to be altered, widened, changed, or laid out the clerk of the Board of County Commissioners must notify the supervisor of the proper district, and furnish him with a certified copy of the order of the board of commissioners.

Sec. 1833. In all cases where consent to use the right of way for a highway is voluntarily given, purchased or condemned, and paid for, either an instrument in writing, conveying the right of way and incidents thereto, signed and acknowledged by the party making it, or a certified copy of the judgment of the court condemning the same, must be made and filed and recorded in the office of the county clerk in which the land so conveyed or condemned must be particularly described.

Sec. 1834. Whenever highways are laid out to cross railroads, canals, or ditches, on public lands, the owners or corporations using the same must, at their own expense, so prepare their roads, canals, or ditches that the public highway may cross the same without damage or delay. And when the right of way for a public highway is obtained through the judgment of any court over any railroad, canal, or ditch no damages must be awarded for the simple right to cross the same.

Sec. 1835. When the alteration of an old or the opening of a new road makes it necessary to remove fences on land given, purchased, or condemned by the order of the court for road or highway purposes, notice to remove the fences must be given by the road supervisor to the owner, the occupant or agent, or by posting the same on the fence; and if the same is not done within ten days thereafter, or commenced and prosecuted with due diligence, the road supervisor may cause it to be removed at the expense of the owner, and recover of him the cost of such removal, and the fence material may be sold to satisfy the judgment.

Sec. 1836. Highways must be laid out and opened when practicable upon subdivision or section lines.

Sec. 1837. Upon a petition for that purpose, by a majority of the freeholders or owners residing upon any highway, when it can be done without material damage, the board of commissioners may change such highway to subdivision or section lines, and lay out and open the same thereon.

ARTICLE XIV.

PRIVATE ROADS.

Section 1845. How private roads may be established.

Sec. 1845. Private roads may be established in the manner provided in Title VII, Part III, Code of Civil Prodedure. But in every case the necessity of the road and the amount of all damage to be sustained by the opening thereof must be first determined by a jury and such amount together with the expenses of the proceeding must be paid by the person to be benefitted.

ARTICLE XV.

ERECTION AND MAINTAINING BRIDGES.

Section 1850. Maintenance of public bridges.
" *1851. Special tax may be levied.*
" *1852. Construction and repair of bridges.*
" *1853. Bids, contract, and bond.*
" *1854. Bridges between counties.*
" *1855. Meaning of word bridges.*

Sec. 1850. All public bridges are maintained by the county at large under the management and control of the Board of County Commissioners, the expense of constructing, maintaining, and repairing the same, and the expense thereof is provided in this Article.

Sec. 1851. The Board of County Commissioners may levy a special tax not to exceed one mill on a dollar of the taxable property of the county for the purpose of constructing, maintaining, and repairing free public bridges. Such tax must be levied and collected in the same manner as other taxes, and the money when collected and paid into the county treasury must be kept as a special bridge fund subject to the order of the board, to be used in the construction, maintaining and repairing of bridges at such places as the board directs.

Sec. 1852. No bridge, the cost of construction or repair of which exceeds two hundred dollars, must be constructed or repaired except on the order of the Board of County Commissioners. When ordered to be constructed or repaired the contract therefor, may, in the discretion of the board, be let to contractors, and if so let it must be after reasonable notice, given by publication at least once a week for two weeks in a county newspaper, and if no paper is published in the county, then by three posted notices, one at the court house, one at the point to be bridged, and one at some other public place in the county.

Sec. 1853. All bids must be sealed, opened at the time specified in the notices, and the contract awarded to the lowest responsible bidder. The board may; however, reject any and all bids. The contract and bond for its performance must be entered into and approved by the board, except in cases of great emergency, and by the unanimous consent of all its members, the board may proceed at once to construct, replace or repair any and all structures of whatever nature without notice.

Sec. 1854. Bridges crossing the line between counties must be constructed by the counties into which said bridges reach, and each of the counties must pay such portion of the cost as has been previously agreed upon by the boards of the respective counties.

Sec. 1855. The word bridges in this Chapter includes the approaches thereto and culverts.

ARTICLE XVI.

FERRIES.

Section 1860. Ferries between counties.
" *1861. Notice of application.*
" *1862. Application for leave and notice.*
" *1863. The hearing.*
" *1864. Duty of board of commissioners.*
" *1865. Report of owner or keeper of ferry.*
" *1866. Power and duty of commissioners in regard to ferry.*
" *1867. All passengers must be accommodated.*
" *1868. Penalties recovered, how paid.*
" *1869. Bond to be given.*
" *1870. When ferry unites two counties, tax how to be paid.*
" *1871. Interested commissioner must not act.*
" *1872. Ferry within one mile of another, when,*
" *1873. Owner of land preferred.*

Section 1874. How lands acquired for use of ferry.
" 1875. Must post rates of toll.
" 1876. Keep banks in repair.

Sec. 1860. When authority to erect and keep a ferry over waters dividing two counties is desired, application must be made to the board of commissioners of that county situated on the left bank descending such river, creek, or slough.

Sec. 1861. The board of commissioners must not grant authority to erect a toll ferry until the notice of such intended application has been given as required in this Article.

Sec. 1862. Every applicant for authority to erect and take tolls on a public ferry must publish notice in at least one newspaper in each county in which the ferry is or touches, or if there is no newspaper published therein, then in one published in an adjoining county, and by posting three notices in three public places in the township for four successive weeks, specifying the location and the time and place when and where the application will be made. After notice is given application must be made in writing under oath to the board of commissioners of the proper county, the landings of the proposed ferry must be described, and the names of the owners thereof given, if known; and if the applicant is not the owner of the land, that notice of the application has been served on the owner thereof at least ten days prior to the application.

Sec. 1863. At the hearing, proof of giving the notice, as required by the preceding section, must be made, and any person may appear and contest the application. If the board finds that the ferry is either a public necessity or convenience, and that the applicant is a suitable person, and by reason of the ownership of the landing, or failure of the owner thereof to apply is entitled thereto, authority to erect and take tolls on the ferry may be granted to him for the term of ten years.

Sec. 1864. The board of commissioners granting authority to keep a public ferry, must at the same time:

1. Fix the amount of a penal bond to be given by the person or corporation owning or taking tolls on the ferry for the benefit of the county, and all persons crossing or desiring to cross the same, and provide for the annual renewal thereof.

2. Fix the amount of license tax to be paid by the person or corporation for taking tolls thereon, not less than three dollars nor over one hundred dollars per month, payable annually.

3. Fix the rate of tolls which may be collected for crossing the ferry.

4. Make all necessary orders relative to the construction, erection, and business of ferries which they have by law the power to make. The board of commissioners may, at any time they see fit, authorize and maintain fords across any water within any distance of any ferry.

Sec. 1865. Every owner or keeper of a ferry must report annually to the board of commissioners from which his liscense is obtained, under oath, the following facts:

1. The actual cost of the construction or erection and equipment of the ferry.

2. The repairs made during the preceeding year and the actual cost thereof.

3. The expense of labor and hire of agents, and other costs necessarily incurred in and about the conduct of their business.

4. The amount or tolls collected, and

5. The estimated actual cash value of the ferry, exclusive of the franchise.

Sec. 1866. The board of commissioners may make all needful rules and regulations for the government of ferries and ferry keepers, prescribing:

1. How many boats must be kept, their character and how propelled.

2. The number of hands, boatmen or ferrymen, to be employed and rules for their government.

3. When and under what circumstances to make trips in the night time.

4. Who may be ferried free of toll.

5. In what cases of danger or peril not to cross.

6. Penalties for violation of regulations.

7. In case of steamboats, the rate of speed:

8. The method of and preference in loading and crossing: and

9. How and by whom action must be brought to recover penalties.

Sec. 1867. Subject to the foregoing regulations ferry keepers must make trips to accommodate all passengers who desire to cross, and any failure so to do subjects the franchise to forfeiture, by a proper proceeding for that purpose.

Sec. 1868. Penalties recovered under this Article must be paid to the county treasury for the use of the general road fund of the county.

Sec. 1869. The bond required of the owner or keeper of the ferry must be in the sum fixed by the board of commissioners with one or more sureties and conditioned that the ferry will be kept in good repair and condition, and that the keeper will faithfully comply with the laws of the State and all legal orders of the board of commissioners regulating the same, and pay all damages recovered against him by any person injured or damaged by reason of delay at or defect in such ferry, or in any manner resulting from a non-compliance with the laws or lawful orders regulating the same. The bond must be approved by the board of commissioners.

Sec. 1870. The license tax for a ferry connecting two counties must be paid to the treasurer of the county granting it, and the license issued, but the treasurer of such county must pay to the treasury of the county in which the other end or landing of the bridge or ferry is located one-half the sum so received annually.

Sec. 1871. When a county commissioner is interested in an application to erect, construct, or take tolls on a ferry, he must not act in any such matters.

Sec. 1872. No toll ferry must be established within one mile immediately above or below a regularly established ferry, unless the situation of a town or village, the crossing of a public highway, or the intersection of some creek or ravine renders it necessary for public convenience. In addition to the public notice hereinafter required, notice of intention to apply for authority to erect a toll ferry, as in this section provided, must be served upon the proprietor of the ferry already established at least ten days prior thereto, giving the time and place and grounds of such application.

Sec. 1873. The owner of the land on either of the waters to be crossed, and the owner of the land on the left bank descending, over the owner of the land on the right bank, is entitled to preference in procuring authority to construct a ferry: but where such owner fails or neglects to apply for such authority within a reasonable time after the necessity therefor arises, the board of commissioners may grant such authority to another.

Sec. 1874. When there are lands necessary for the construction, erection, or use of such ferry which cannot be procured by agreement between the owner and the land owner, the right of way and all other lands necessary for the use and construction or erection thereof may be acquired by condemnation.

Sec. 1875. The owner of every ferry must have the rates of toll as fixed by the board of commissioners, printed or written, and posted up in some conspicuous place on or near the ferry.

Sec. 1876. All ferry keepers must keep the banks of the streams or waters at the landings of their ferries graded and in good order for the passage of vehicles. For every day compliance herewith is neglected twenty-five dollars is forfeited, to be collected for the use of the road fund of the county.

ARTICLE XVII.

MISCELLANEOUS PROVISIONS.

Section 1883. Toll roads and bridges prohibited.
" *1884. Contracts in reference thereto void.*
" *1885. Special laws of no effect.*
" *1886. Commissioners must take possession of toll roads and bridges.*
" *1887. Laws of the highway.*
" *1888. Driver addicted to intoxication.*
" *1889. Notice to employer of driver's intoxication.*

Section 1890. Horse to be fastened while standing.
" *1891. Penalties, how and by whom recovered.*
" *1892. Liabilitity of owners for damages done b drivers.*

Sec. 1883. The board of commissioners must not authorize any person to collect tolls on any road or bridge, for the benefit of such person.

Sec. 1884. All contracts between the board of commissioners and any person, authorizing the collection of tolls on roads or bridges are null and void.

Sec. 1885. All special laws chartering or licensing toll roads, bridges, or ferries are of no effect.

Sec. 1886. All highways or roads and bridges claimed by any person on which toll is collected or received, must be taken possession of by the board of commissioners, and opened as free public highways.

Sec. 1887. When vehicles meet, the drivers of each must turn seasonably to the right of the center of the highway or road, so as to pass without interference, under a penalty of twenty-five dollars for every neglect, to be recovered by the party injured. Where the whole breadth of a roadway is not worked, the center of the worked part is the center of the highway. In times of snow where there is a beaten track the center of that is the center of the highway or road. But this section does not apply to vehicles meeting cars running on rails or grooved tracks.

Sec. 1888. No person must employ to drive any vehicle for the conveyance of passengers upon any public highway or road, a person addicted to drunkenness, under penalty of five dollars for every day such person is in his employment.

Sec. 1889. If any driver, while actually employed in driving any vehicle is intoxicated to such a degree as to endanger the safety of his passengers, the owner, on receiving from any passenger a written notice of the fact, verified by his oath, must forthwith discharge such driver; and if he has such driver in his service within six months after such notice he incurs a like penalty.

Sec. 1890. The driver of any vehicle used to convey passengers must not leave the horses attached thereto while passengers remain in the same, without first fastening the horses or placing the lines in the hands of some other person, so as to prevent their running, under a penalty of twenty dollars for each offense.

Sec. 1891. The penalties provided by the three preceding sections are to be recovered by the county attorney of the county in which the offender residès, for the use of the county road fund. Any action for a penalty incurred under the last section must be commenced within six months.

Sec. 1892. The owner of every vehicle running or traveling upon any highway or road for the conveyance of passengers, is liable for all damages to persons or property done by any person in his employment as a driver while driving such vehicle, whether done wilfully or negligently, or otherwise, in the same manner as such driver would be liable.

TITLE VII.

GENERAL POLICE OF THE STATE.

Chapter I. Boards of health.
“ *II. Registry of births, marriages and deaths.*
“ *III. Cemeteries and sepulture.*
“ *IV. Lost and unclaimed property.*
“ *V. Animals, their care and protection.*
“ *VI. Weights and measures.*
“ *VII. Time.*
“ *VIII. Money of account.*
“ *IX. Trade marks.*
“ *X. Local option.*
“ *XI. Poor.*
“ *XII. Fire wardens, fires and firemen.*
“ *XIII. Fences.*
“ *XIV. Toll for grinding grain.*
“ *XV. Tree planting and arborculture.*
“ *XVI. Statistics.*
“ *XVII. Boxes, bottles and siphons.*
“ *XVIII. Pawn brokers and junk dealers.*
“ *XIX. Arbitration.*
“ *XX. Regulation of coal mines.*
“ *XXI. Regulating sale of coal and kerosene oil.*
“ *XXII. The protection of discharged employes and the prevention of blacklisting.*
“ *XXIII. Auctions.*
“ *XXIV. Dams and reservoirs.*

CHAPTER I.

BOARDS OF HEALTH.

Section 1900. Boards of Health, how appointed.
“ *1901. Duties of, rules and regulations.*
“ *1902. May declare quarantine.*
“ *1903. Physician to report disease.*
“ *1904. Expenses to be paid by county.*

Sec. 1900. There is in each county a board of health which consists of the county commissioners and one physician entitled to practice medicine and surgery under the laws of the State, who must be appointed by the Board of County Commissioners, and holds his office for the term of two years, unless sooner removed by the board. In case of a vacancy in his office, the board must appoint a successor for the unexpired term.

Sec. 1901. It is the duty of the board of health to establish for the county, or any part thereof, such sanitary rules and regulations as may be necessary to prevent the outbreak or spread of infectious or contagious diseases. Any person failing or refusing to comply with or obey such rules and regulations is guilty of a misdemeanor.

Sec. 1902. The board of health of any county may declare quarantine therein, or in any part thereof, against contagious or infectious diseases prevailing in any other place, and against all persons and things likely to spread contagion or infection. The board has power and authority to enforce such quarantine until the same is raised by it, and may confine any person affected with or likely to spread contagious or infectious disease to the house or premises in which he resides; or if such person has no residence in the county, to a place to be provided by the board for the purpose.

Sec. 1903. Every practicing physician must report promptly to the county board of health of the county in which there are any diseases of an infectious or contagious nature, under treatment by him, and the board must at once take the necessary precaution to prevent the spread of the same.

Sec. 1904. All necessary expenses incurred by the board in enforcing the provisions of this Chapter must be paid out of the county treasury, from the general fund of the county.

CHAPTER II.

REGISTRY OF BIRTHS, DEATHS AND MARRIAGES.

Section 1909. Registry of marriages.
" *1910. Registry of births.*
" *1911. Registry of deaths.*
" *1912. Registry of births and deaths.*
" *1913. Same.*
" *1914. Duties of county clerk.*

Sec. 1909. All persons who perform the marriage ceremony must keep a registry of the time of each marriage so celebrated, the residence, the names in full, the place of birth, the age of each party, and whether either has ever been before married.

Sec. 1910. All physicians and professional midwives must keep a registry of the time of each birth at which they assist professionally, the sex, race and color of the child, and the names and residence of the parents.

Sec. 1911. Physicians who attend deceased persons in their last sickness, clergymen who officiate at a funeral, coroners who hold inquests, sextons and undertakers who bury deceased persons, must each keep a registry of the name, age, residence and time of death of such person.

Sec. 1912. All persons registering marriages, births or deaths must quarterly file with the county clerk a certified copy of their register. All such certificates must specify, as near as may be ascertained, the name in full, occupation, age, term of residence in the city or county, birth-place, condition, whether single or married, widow or widower, sex, race, color, last place of residence, and cause of death of all decedents.

Sec. 1913. If at any birth no physician or midwife attends, the parents must make the report.

Sec. 1914. The county clerk must keep separate registers, to be known as the "Register of Marriages," the "Register of Births," and the "Register of Deaths," in which the marriages, births and deaths certified to him must be numbered in the order in which they are reported to him. There must be stated in each register, in separate columns, properly headed, the various facts contained in the certificates, and the name and official or clerical position of the person making the report. The county clerk must carefully examine each report, and register the same marriage, birth or death but once, although it may be reported by different persons.

CHAPTER III.

CEMETERIES AND SEPULTURE.

Section 1920. Title to cemetery grounds.
" *1921. What constitutes a cemetery.*
" *1822. Cemeteries how laid out and dedicated on public lands.*
" *1923. Inhabitants of city, town or villiage to own cemetery.*
" *1924. Public cemetery, under whose control.*
" *1925. Who exercises jurisdiction and control over.*
" *1926. Registry must be kept.*
" *1927. Penalties.*

Sec. 1920. The title to lands used as a public cemetery or graveyard, situated in or near to any city, town or villiage, and used by the inhabitants thereof continuously, without interruption, as a burial ground for five years, is vested in the inhabitants of such city, town or villiage, and the lands must not be used for any other purpose than a public cemetery, except that the bodies interred therein may be removed and no others interred therein, upon the order of the Board of County Commissioners, city council or other body having authority, when it appears that the public health is endangered or for any other good cause, but a new cemetery must be purchased and laid out by proper authority and such bodies removed and interred therein, and the old cemetery may be sold and the proceeds applied to the purchase of the new cemetery.

Sec. 1921. Six or more human bodies buried at one place constitutes the place a cemetery.

Sec. 1922. Incorporated cities or towns, and for unincorporated towns or villages, the Board of County Commissioners of the county, may survey, lay out and dedicate of the public lands situated in or near such city, town or village, not exceeding five acres, for cemetery and burial purposes. The survey and description thereof, together with a certified copy of the order made constituting the same a cemetery, must be recorded in the office of the county clerk of the county in which the same is located.

Sec. 1923. The inhabitants of any city, town, village. or neighborhood, may, by subscription, or otherwise, purchase or receive by gift or donation, lands not exceeding one hundred and sixty acres to be used as a cemetery, the title thereof to be vested in such inhabitants, and when once dedicated for use for burial purposes, must thereafter be used for no other purpose, except as provided in Section 1920.

Sec. 1924. The public cemeteries of cities, towns, villages, or neighborhoods, must be inclosed and laid off into lots, and the general management, conduct and regulation of interments, permits to inter, or remove interred bodies, the disposition of lots, keeping the same in order, are under the jurisdiction and control of the cities and towns owning the same, if incorporated; if not, then under the jurisdiction and control of the Board of County Commissioners of the county in which they are situated.

See. 1925. The Board of County Commissioners, city trustees, or other corresponding authorities having jurisdiction and control of cemeteries, may make general rules and regulations therefor, and appoint sextons and other officers to enforce obedience to the same with such other powers and duties regarding the cemetery as they may deem necessary, including the right by taxation to raise money, purchase land, lay out cemeteries and manage them.

Sec. 1926. The authority having the control of a public or private cemetery must require a registry of name, age, birthplace, and date of death and burial of every body interred therein, to be kept by the sexton or other officer, open to public inspection.

Sec. 1927. Any person on whom any duty is imposed by Chapters I., II. and III., of this Title, who fails, neglects, or refuses to perform the same as therein required, is liable to a penalty of fifty dollars, to be recovered by the county attorney of the county, and when recovered must be paid into the general fund of the county.

CHAPTER IV.

LOST AND UNCLAIMED PROPERTY.

Article I. Lost money and goods.
" II. Unclaimed property.

ARTICLE I.

LOST MONEY AND GOODS.

Section 1930. Duty of person finding lost money, goods, etc.
" 1931. Justice to appoint appraisers; duty of appraisers.
" 1932. Justice to file list of appraisers.
" 1933. Proceedings if no owner appears within six months.
" 1934. Finder to restore property, when.
" 1935. Finder failing to make discovery, penalty.
" 1936. Proof, how made.

Sec. 1930. If any person find any money, goods, things in action, or other personal property, or save any domestic animal from drowning or from starvation, when such property is of the value of ten dollars or more, he must inform the owner thereof, if known, and make restitution without compensation further than a reasonable charge for saving and taking care thereof; but if the owner is not known to the party saving or finding such property, he must, within five days, make an affidavit before some justice of the peace of the county, stating when and where he found or saved such property, particularly describing it, and if the property was saved, particularly from what and how he saved the same, stating therein whether the owner of the property is known to him, and that he has not secreted, withheld, or disposed of any part of such property.

Sec. 1931. The justice must then summon three disinterested householders to appraise the same. The appraisers, or any two of them, must make two lists of the valuation and description of such property, and sign and make oath to the same, and deliver one of the lists to the finder, and the other to the justice of the peace.

Sec. 1932. The justice must file such list and the finder must transmit a copy of the same to the county clerk of the county, who must record the same in a book known as the "Estray and Lost Property Book," within fifteen days, and the finder must at once set up at the court house door and four other public places in the township or city a copy of such valuation and a description of property.

Sec. 1933. If no owner appears and proves the property within six months, and the value thereof does not exceed twenty dollars, the same vests in the finder, but if the value exceeds twenty dollars the finder must within thirty days after setting up the list mentioned in the preceding Section, cause a copy of the description to be inserted in some newspaper printed in the county, if there be one, and if not, in some newspaper printed in the State, for three weeks; and if no owner prove the property within one year after such publication it vests in the finder.

Sec. 1934. If, within one year, an owner appears and proves the property and pays all reasonable charges, including fees of officers, the finder must restore the same to him. On failure to make restoration of such property, or the appraised value thereof, on being tendered such charges and fees, the owner may recover the same or the value thereof by civil action in any court having jurisdiction.

Sec. 1935. If any person find any money, property, or other valuable thing, and fail to make discovery of the same as required by this Article, he forfeits to the owner double the value thereof

Sec. 1936. The proof required by this article must be made before the county clerk, with whom the list provided for herein is filed, and if he is satisfied therefrom that the person claiming to be, is the owner, he must certiy that fact under his hand and seal.

ARTICLE II.

UNCLAIMED PROPERTY.

Section 1940. Common carriers may retain goods until charges are paid.
" *1941. Property unclaimed within sixty days to be sold, how.*
" *1942. Proceeds unclaimed, where to go.*
" *1943. Carriers' responsibility ceases, when.*
" *1944. Property upon which advances are due, may be sold when.*
" *1945. Fees of officers.*

Sec. 1940. When any goods, merchandise or other property has been received by any railroad or express company, or other common carrier, commission merchants, innkeepers, or warehousemen, for transportation or safe keeping, and are not delivered to the owner, consignee, or other authorized person, the carrier, commission merchant, innkeeper, or warehouseman, may hold or store the same with some responsible person, until the freight and all just and reasonable charges are paid.

Sec. 1941. If no person calls for the property within sixty days from the receipt thereof, and pays freight and charges thereon, the carrier, commission merchant, innkeeper, or warehouseman may sell such property, or so much thereof, at auction to the highest bidder, as will pay freight and charges, first having given twenty days' notice of the time and place of sale to the owner, consignee or consignor, when known, and by advertisement in a daily paper ten days (or if in a weekly paper, four weeks), published where such sale is to take place: and if any surplus is left after paying freight, storage, cost of advertising, and other reasonable charges, the same must be paid over to the owner of such property at any time thereafter, upon demand being made therefor within sixty days after the sale.

Sec. 1942. If the owner or his agent fails to demand such surplus within sixty days of the time of such sale, then it must be paid into the county treasury, subject to the order of the owner.

Sec. 1943. After the storage of goods, merchandise, or property, as herein provided, the responsibility of the carrier ceases, nor is the person with whom the same is stored liable for any loss or damage on account thereof, unless the same results from his negligence or want of proper care.

Sec. 1944. When any commission merchant or warehouseman receives on consignment, produce, merchandise, or other property, and makes advances thereon, either to the owner, or for freight and charges, he may if the same is not paid to him within sixty days from the date of such advances, cause the produce, merchandise, or property on which the advances were made, to be advertised and sold as provided herein.

Sec. 1945. The fees of officers under this Chapter are the same as allowed for similar services in other cases provided in this Code, to be paid by the taker up or finder, and recovered of the owner.

CHAPTER V.

ANIMALS, THEIR CARE AND PROTECTION.

Article I. Marks and brands.
" *II. Stock commissioners.*
" *III. Stock inspectors.*
" *IV. Tax levy for stock inspection purposes.*
" *V. State Veterinary Surgeon.*
" *VI. Deputy veterinary surgeon. Sheep. Disease.*
" *VII. Rams, he-goats and diseased animals not to run at large.*
" *VIII. Bounty for killing wild animals.*
" *IX. Game and fish.*
" *X. Game and fish warden.*

ARTICLE I.

MARKS AND BRANDS.

Section 1950. Secretary of State, general recorder of marks and brands.

Section 1951. Applications for marks and brands, to whom made.
" *1952. Secretary of State to publish list.*
" *1953. Venting of marks and brands.*
" *1954. Hides of slaughtered cattle.*
" *1955. Butchers to keep record, what.*

Sec. 1950. The Secretary of State is the general recorder of marks and brands, and the county clerks are recorders of marks and brands for their respective counties.

Sec. 1951. Whenever the owner of horses, mules or cattle, running at large, wishes to have a brand, or mark and brand, different from any one in use by any other person, application may be made to the Secretary of State directly, or to the county clerk of the county in which the applicant resides. All applications made to county clerks must be reported to the Secretary of State, who must designate the particular brand or mark and brand to be used by the applicant and define its position on the animal, and make a record thereof in a book to be kept by him for that purpose. He must furnish to the owner certified copies of such record, and the owner must have such certified copy recorded by the county clerk of the county in which the owner resides. Certified copies of such record by the general recorder, or the county clerk, are *prima facie.* evidence of the ownership of the brand or mark and brand so recorded.

Sec. 1952. The Secretary of State must biennially, in his report to the Governor, publish a list of all brands, or marks and brands, not previously published.

Sec. 1953. Every person who sells horses, mules, or cattle must vent or counter-brand such animals, either by inverting the original brand or by a vent or counter-brand, which must be at least one-half the size of the original brand, and the venting or counter-branding is *prima facie* evidence of sale.

Sec. 1954. All persons slaughtering cattle must keep the hides, with the ears attached, for ten days, and all persons having such hides in their possession must exhibit the same for examination on demand being made by any person.

Sec. 1955. All butchers must keep a record of the marks and brands of the cattle slaughtered by them in a book, subject at all times to the inspection of the public, in which must be recorded the name of the person from whom any cattle are bought, together with his residence and the date of purchase and delivery, and on or before the first day of each month must make two copies of such record and make affidavit to the correctness of the same, one of which must be filed in the office of the nearest justice of the peace and the other in the office of the county clerk.

ARTICLE II.

STOCK COMMISSIONERS.

Section *1960. How appointed.*
" *1961. Qualifications and term of office of commissioners.*
" *1962. Districts.*
" *1963. Organization of.*
" *1964. Expenses allowed.*
" *1965. Duties of.*
" *1966. Auditing bills for expenses.*
" *1967. Report.*

Sec. 1960. The Governor is authorized to nominate, and by and with the consent of the Senate, appoint a Board of Stock Commissioners, consisting of one member from each of the counties of Dawson, Custer, Yellowstone, Meagher, Choteau, Fergus,and Lewis and Clarke, and such other counties as heretofore have requested, or hereafter may request, by action of the county commissioners of the county, the appointment of a member of the Board of Stock Commissioners therein, and such stock commissioners upon entering upon their duties must take the constitutional oath of office, which oath must be filed in the office of the Secretary of State.

Sec. 1961. Each member of the board must be a resident of the county for which he is appointed. The stock commissioners hold office for two years, or until their successors are appointed and qualified, and in case of vacancy from death, resignation or removal from the State, the Governor must appoint to fill said vacancy.

Sec. 1962. The board may divide the State into as many districts as is necessary.

Sec. 1963. The board must organize by electing one of their number president, and appoint a secretary.

Sec. 1964. The stock commissioners and their secretary receive no compensation or mileage for their services, but must be allowed their actual expenses incurred by them in the performance of their duties.

Sec. 1965. It is the duty of the board to exercise a general supervision over, and so far as may be, protect the stock interests of the State from theft and disease, and devise and recommend from time to time, such legislation as in their judgment will foster this industry. The board may take all necessary and lawful steps, procure all necessary and lawful process for the attendance of witnesses, and employ counsel to assist in the prosecution of any person arrested as hereinafter provided, and it is the duty of the board, when necessary, to assist in the prosecution of any person guilty of any offense against the laws of this State in feloniously branding or stealing any stock, or any other crime, or misdemeanor, under any of the laws of the State for the protection of the rights and interests of stockowners.

Sec. 1966. It is the duty of the board to audit all bills for expenses incurred under the provisions of this Chapter, and if found correct, to certify the same to the State Auditor, who must issue a warrant on the State Treasurer in favor of the party or parties entitled thereto for the amounts so certified, which must be paid whenever and as soon as any funds come into his hands properly applicable thereto. The warrant must specify that it is drawn on the stock inspector and detective fund.

Sec. 1967. The board must make an annual report in writing to the Governor on the first Monday of November, and must state therein all of the transactions of the board for the previous year.

ARTICLE III.

STOCK INSPECTORS.

Section 1970. Appointment and powers.
" 1971. Bond and oath.
" 1972. Duties of.
" 1973. Compensation.

Sec. 1970. The Board of Stock Commissioners may appoint such stock inspectors and detectives as are necessary for the protection of the live stock interests of the State, and the inspectors and detectives have the same power as sheriffs to summon a posse when necessary and to make arrests. The stock inspectors and detectives may, when deputized by the sheriff, exercise the powers of deputy sheriff, but must not receive any fee or emolument therefor from the State or any county.

Sec. 1971. The stock inspectors and detectives must each make and execute a bond with two sufficient securities,, in the sum of one thousand dollars, to the State, conditioned for the full and faithful performance of their duties, said bond to be approved by and filed with the Secretary of State, and each must take and subscribe the constitutional oath of office.

Sec. 1972. It is the duty of the stock inspectors and detectives to arrest all persons who in their presence violate the stock laws of the State, and every stock inspector and detective, upon information that any person has committed any offense against the laws of the State in feloniously branding or stealing any stock, or any offense against the laws of the State, for the protection of the rights and interests of stock owners, must make the necessary affidavit for the arrest and examination of such person, and, upon warrant issued therefor, immediately arrest such person, and bring him before the proper officer and notify the board of his acts.

Sec. 1973. The stock inspectors and detectives are under the exclusive control and direction of the board, and must be paid for their services such sums as may be agreed upon by the board, out of the fund hereinafter provided for, but in no case must they receive any mileage.

ARTICLE IV.

TAX LEVY FOR STOCK INSPECTION PURPOSES.

Section 1980. Levy of tax for stock inspection and detective fund.
" *1981. District officers, detectives and inspectors.*

Sec. 1980. The Board of County Commissioners of each county in which is appointed a member of the Board of Stock Commissioners at the time of levying the annual tax, must levy such tax as is recommended by the Board of Stock Commissioners, not exceeding one and one-half mills on the dollar upon the assessed valuation of all cattle, horses, mules and asses, in their respective counties, which must be collected as other taxes upon like property, and, when so collected, must be paid to the State Treasurer, who must keep the same as a separate fund, to be known as the "Stock Inspector and Detective Fund," which fund must be used in defraying the expenses incurred under the provisions of this Chapter. The expenditures in any year under the provisions of this Article, must in no case exceed the special tax levied for that year.

Sec. 1981. The stock inspectors and detectives are district officers, and the board must designate the distsict in which the inspectors and detectives shall serve, and the district must be designated in their commissions.

ARTICLE V.

STATE VETERINARY SURGEON.

Section 1986. How appointed, term of office, and bond.
" *1987. Duties of.*
" *1988. Owners must notify Veterinary Surgeon.*
" *1989. Exceptions.*
" *1990. Quarantine, when ordered.*
" *1991. To order diseased animals slaughtered.*
" *1992. Appraisers as to value.*
" *1993. Report of Veterinary Surgeon.*
" *1994. Importation, when prohibited.*
" *1995. Persons to report contagious diseases to Veterinary Surgeon.*
" *1996. Diseased animals not to be sold or slaughtered for food.*
" *1997. Payment for diseased animals killed.*
" *1998. Payment of indemnity.*
" *1999. Salary and qualifications of Veterinary Surgeon.*

Section 2000. *Fees of appraisers and others.*
" 2001. *Liability for animals destroyed.*
" 2002. *Tax for stock indemnity fund.*
" 2003. *Place of quarantine.*
" 2004. *Deputies.*

Sec. 1986. The Governor is authorized to nominate, and, by and with the advice and consent of the Senate, appoint a competent veterinary surgeon, who is known as the "State Veterinary Surgeon," who holds his office for two years, and must execute a bond in the sum of five thousand dollars, and who before entering on his duties, must take and subscribe the oath of office prescribed by the Constitution.

Sec. 1987. The duties of the State Veterinary Surgeon are:

1. To investigate all cases of contagious and infectious diseases among cattle, horses, mules and asses, in this State, of which he may have a knowledge, or which may be brought to his notice by any resident in the locality where such disease exists; and, in the absence of specific information, to make visits of inspection to any locality where he may have reason to suspect that there is any contagious or infectious disease.

2. To inspect, under the regulations of this Article, all such animals, which may be brought into this State, in any manner whatever, from or through such State, Territory, or foreign country, as the Governor may declare by proclamation, upon the recommendation of the Board of Stock Commissioners, or otherwise, must be held in quarantine for the purposes of inspection for contagious or infectious diseases.

Sec. 1988. After the making of such proclamation the owner, or person in charge, of any such animals, arriving in this State from or through any State, Territory, or foreign country, against which quarantine has been declared, must notify the State Veterinary Surgeon without delay, and must not allow such animals to leave the place of arrival until they have been examined by the Veterinary Surgeon, and his certificate obtained that all such animals are free from disease; and no animal pronounced unsound from disease by the Veterinary Surgeon, must be turned loose, or allowed to run at large, or removed or permitted to escape, but must be held subject to the order of the Veterinary Surgeon. Any person failing to comply with the provisions of this section is punishable as provided in Section 738, of the Penal Code, and is liable for any damage and loss that may be sustained by any person by reason of the failure of such owner to comply with the provisions of this section.

Sec. 1989. The owner of such animals, ridden under the saddle or driven in harness into this State, or under yoke, and any person coming into this State with his own team or teams, is not required to notify the Veterinary Surgeon, or await the inspection of the animals, but he is liable for all loss or damage to any person by reason of any contagious or infectious disease brought into the State by his animals; and no such animals must be held in quarantine for a longer period than ninety days, unless contagious or infectious disease is found to exist among them.

Sec. 1990. In all cases of contagious or infectious disease among domestic animals or Texas cattle in this State, the Veterinary Surgeon has authority to order the quarantine of the infected premises, and in case such disease becomes epidemic in any locality in this State, the Veterinary Surgeon must immediately notify the Governor, who must thereupon issue his proclamation forbidding any animal of the kind among which said epidemic exists to be transferred from said locality without a certificate from the Veterinary Surgeon showing such animal to be healthy. The expenses of holding, feeding and taking care of all animals quarantined under the provisions of this Article, must be paid by the owner, agent or person in charge of such animals.

Sec. 1991. In case of any epidemic disease where premises have been previously quarantined by the Veterinary Surgeon, as before provided, he is further authorized and empowered, when in his judgment necessary, to order the slaughter of any and all such diseased animals upon said premises, and all such animals as have been exposed to contagion or infection, under the following restrictions: The order must be a written one, and must be made in duplicate, and there must be a separate order and duplicate for each owner of the animals condemned, the original of each order to be filed by the Veterinary Surgeon with the Secretary of State, and the duplicate given to the owner. Before slaughtering any animal that has been exposed only, and does not show disease, the Veterinary Surgeon must call in consultation with him two practicing veterinary surgeons or physicians, residents of the State, or if this is impossible, then two stock owners, residents of the State, and he must have written indorsements upon his order of at least one of the consulting persons, stating that such action is necessary, before the animal is slaughtered.

Sec. 1992. Whenever, as in this Article provided, the Veterinary Surgeon orders the slaughter of one or more animals, he must at the time of making such order notify in writing the nearest available justice of the peace, who must thereupon summon three disinterested citizens, who are stock owners in the neighborhood, to act as appraisers of the value of the animal. The appraisers before entering upon the discharge of their duties, must be sworn to make a true and faithful appraisement without prejudice or favor. They must, after making their appraisement, return certified copies of their valuation, a separate one being made for each owner, together with an accurate description of each animal slaughtered, (giving all brands, ear-marks, wattles, age, sex, and class, as to whether

American, half-breed or Texan,) to the justice of the peace by whom they were summoned, who must, after entering the same upon his record and making an indorsement upon each showing it to have been properly recorded, return it together with a duplicate order of the Veterinary Surgeon, to the person owning the animal slaughtered; and it is the duty of the Veterinary Surgeon to superintend the slaughter of such animals as may be condemned, and also the destruction of the carcass, which latter must be by burning to ashes, or burying in the earth to the depth of not less than six feet, and which must include every part of the animal and hide, and also excrement as far as possible. If the owner of any animal found diseased by the Veterinary Surgeon is killed, or consents to its being killed by the Veterinary Surgeon without appraisement then the Veterinary Surgeon must burn or bury it as herein provided.

Sec. 1993. The Veterinary Surgeon must make an annual report on or before the first day of October to the State Board of Stock Commissioners of all matters connected with his work, and the board must make the same a part of their annual report to the Governor, and they must also transmit to the several boards of county commissioners such parts of the report as they consider necessary and of general interest to the breeders of live stock. The board must also give information in writing as soon as it is obtained to the Governor and to the various boards of county commissioners, of each case or supposed case of disease in each locality, the cause, if known, and the measures adopted to check it.

Sec. 1994. Whenever the Governor has good reason to believe that any disease mentioned in this Article has become epidemic in certain localities in another State or territory, or that conditions exist that render domestic animals and Texas cattle likely to convey disease, he must by proclamation, designate such localities, and prohibit the importation therefrom, of any live stock of the kind diseased into this State, except under such restrictions as he, after consultation with the Veterinary Surgeon, may deem proper. Any person who, after the publication of such proclamation, knowingly receives in charge any animal from any of the prohibited districts, and transports or conveys the same within the limits of this State, is punishable as provided in Section 739, of the Penal Code, and is further liable for any and all damages and loss that may be sustained by any person by reason of the importation or transportation of such prohibited animals.

Sec. 1995. It is the duty of any person who has upon his premises, or upon the public domain, any case of contagious or infectious disease among such animals, to immediately report the same to the Veterinary Surgeon, and a failure so to do, or any attempt to conceal the existence of such disease, or to wilfully or maliciously obstruct or resist the Veterinary Surgeon in the discharge of his duty, is punishable as prescribed in Section 740, of the Penal Code, and forfeits all claims to indemnity for loss from the State.

Sec. 1996. The following regulations must be observed in all cases of disease mentioned in this Article:

1. It is unlawful to sell, give away, or in any manner part with, any animal affected with, or suspected of being affected with, contagious or infectious disease; and in case of any animal that may be known to have been affected with or exposed to any such disease, within one year prior to such disposal, due notice of the fact must be given in writing to the party receiving the animal.

2. It is unlawful to kill for the purpose of selling the meat, any such animal, or to sell, give away, or use any part of it, or its milk, or to remove any part of the skin. A failure to observe these provisions is punishable as provided in Section 740, of the Penal Code. It is the duty of the owner or the person having in charge any such animal affected with, or suspected of being affected with, any contagious or infectious disease, to immediately confine the same in a safe place, isolated from other animals, and with all necessary restrictious to prevent dissemination of the disease, until the arrival of the Veterinary Surgeon. These regulations apply as well to animals in transit through the State as to those resident therein; and the Veterinary Surgeon or his duly authorized agent, has authority to examine, in car, yard, pastures, or stables, or upon the public domain, all such animals, and on detection of disease, to take possession of, and treat and dispose of the animals in the same manner as provided by this Article.

Sec. 1997. All claims arising from the slaughter of animals, under the provisions of this Article, together with the order of the Veterinary Surgeon, and the valuation of the appraisers in each case, must be submitted to the State Auditor, and for each claim that he finds to be equitable and entitled to indemnity under this Article, must issue to the person entitled thereto, his warrant on the stock indemnity fund in the State treasury for the sum named in the appraisers' report. In auditing any claim under this Article, the Auditor must satisfy himself that it does not come under any class for which indemnity is prohibited by this Article, and he must require the affidavit of the claimant to this fact, or if the claimant be not cognizant thereof, then of some reputable person who is cognizant thereof; and also the certificate of the Veterinary Surgeon, whose duty it is to inform himself fully of the fact, that in his opinion the claim is legal and just, and the Auditor may, in his discretion, require further proof.

Sec. 1998. The indemnity granted is two-thirds of the value of the animal, as determined by the appraisers, without reference to its diminished value, because of its being diseased, or having been exposed to disease. The indemnity must be paid to the owner upon his application and the presentation of the proofs prescribed herein, and such application must be made within six months after the slaughter of the animal, or the claim is barred. The right to indemnity under this Article is limited to animals destroyed by reason of the existence of some epizootic disease generally fatal and incurable, such as rinderpest, hoof and mouth disease, pleuro-pneumonia, authrax or Texas fever, among bovines, and glanders among horses, mules and asses. For the ordinary contagious diseases, not in their nature fatal, such as epizootic or influenza in horses, no indemnity must be paid. The right to indemnity does not exist, and the payment of such must not be made in the following cases:

1. For animals belonging to the United States.

2. For animals that are brought into the State contrary to the provisions of this Article.

3. For animals that are found to be diseased, or that are destroyed because they have been exposed to disease before or at the time of their arrival in the State.

4. When an animal was previously affected by any other disease, which, from its nature and development, was incurable and necessarily fatal.

5. When an owner or person in charge has knowingly or negligently omitted to comply with the provisions of Sections 1995 and 1996, of this Article.

6. When an owner or claimant, at the time of coming into possession of the animal, knew it to be diseased or received the notice specified in the first clause of Section 1996, of this Article.

7. When the animal has been brought into the State within ninety days immediately preceding the outbreak of disease, on account of which such animal was killed.

Sec. 1999. The Veterinary Surgeon receives for his services an annual salary of three thousand dollars. No person must receive the appointment of State Veterinary Surgeon who is not a graduate in good standing of a recognized college of veterinary surgeons, either in the United States, Canada or Europe.

Sec. 2000. The appraisers mentioned in this Article receive three dollars for each day or part of a day they are actually employed, which must be paid from the State treasury out of the stock indemnity fund in this Article provided, upon vouchers which bear the certificate of the justice who summoned them. The justice receives his ordinary fee for issuing a summons, to be paid out of the stock indemnity fund. The persons called in consultation by the Veterinary Surgeon each receive three dollars for each day or part of a day they are actually employed and ten cents per mile, for distances actually traveled, which sums must be paid from the State treasury out of the stock indemnity fund upon vouchers certified to by the Veterinary Surgeon. The incidental expenses in causing animals to be slaughtered and their carcasses to be burned and disinfecting infected premises, must be paid from the State treasury out of the stock indemnity fund, upon vouchers.

Sec. 2001. The liability for indemnity for animals destroyed and for fees, costs and expenses incurred under the provisions of this Article in any year is limited by, and must in no case exceed, the amount especially designated for the purpose and for that period, by the terms of this Article; nor must the Veterinary Surgeon or any one else incur any liability under the provisions of this Article in excess of the surplus in the stock indemnity fund hereinafter provided; nor must any act be performed or property taken under the provisions of this Article become a charge against the State.

Sec. 2002. The Board of County Commissioners of each county must, at the time of making the annual assessment, levy a special tax not exceeding one-half of one mill on the dollar upon the assessed value of all cattle, horses, mules and asses in the county, to be known as the "Stock Indemnity Fund;" said tax must be collected and paid to the State Treasurer in the manner provided by law for the levying, collection and payment of other State taxes, which fund constitutes the indemnity fund specfied by this Article to be used in paying for animals destroyed and for fees, costs and expenses provided under the provisions therefor. It must be used exclusively for that purpose, and must be paid out by the State Treasurer as provided in this Article.

Sec. 2003. The Veterinary Surgeon must select the place where stock must be quarantined.

Sec. 2004. The Veterinary Surgeon has power to appoint from time to time, deputies, not exceeding four in number, at any time he cannot personally attend to all the duties required by his office, at a salary not to exceed five dollars per day for each day actually employed, to be paid out of the stock indemnity fund, and must designate the county for which each deputy is to act.

ARTICLE VI.

DEPUTY VETERINARY SURGEON, SHEEP INSPECAOR—DISEASE.

Section 2022. Deputy Inspector.
" *2023. Residence and oath.*
" *2024. Duties of.*
" *2025. Same.*
" *2026. Quarantine by Governor.*
" *2027. As to other States.*
" *2028. Quarantined sheep, how cared for.*
" *2029. Scabby sheep not to be moved.*
" *2030. Inspection of sheep from other States.*

Section 2031. Deputy Inspector's compensation.
" 2032. Form of bill and vouchers.
" 2033. Deputy Inspector to keep book.
" 2034. Penalty for violation of Chapter.
" 2035. Penalty for bringing diseased sheep into State.
" 2036. Report of Deputy Inspector.
" 2037. Additional Inspector appointed.
" 2038. Levy of tax for the Sheep Inspector and indemnity fund.

Sec. 2022. The State Veterinary Surgeon, upon the request of the president or secretary of any organized wool growers' association in any county in the State, or of any three sheep owners in any county, must appoint a capable person as Deputy Inspector in such county, who holds his office during the pleasure of the Veterinary Surgeon, and must perform the duties hereinafter prescribed.

Sec. 2023. The Deputy Inspector must be a resident of the county for which he is appointed. He must, before entering upon the duties of his office, take the constitutional oath of office.

Sec. 2024. The Deputy Inspector must inspect all sheep within his county of which he may receive notice, as provided in the next section, and in case he finds the same are not diseased, he must make and issue a certificate stating such fact. But if the sheep are diseased, or have been herded upon the range or in corrals which have within the past ninety days previous thereto been used or occupied by any diseased or infected sheep, the regulations for their quarantine, holding and keeping, must at once be made by such deputy. Each Deputy Inspector so appointed must personally supervise the dipping of every band of scabby sheep within his county, and appoint the date for each and every dipping; he has the right to determine and superintend the proportion and mixture of materials, and must cause all sheep quarantined to be distinctly marked.

Sec. 2025. Upon receipt of information, in writing, of any of the facts mentioned in the preceding section, the Deputy Inspector must immediately cause the diseased sheep, and all sheep running in the same flock with them, to be examined, and if found so diseased, to be quarantined and held within a certain limit or place, to be defined by him, and such sheep must be held in quarantine until the owner, or person in charge, has eradicated such scab or infectious disease. The expense of feeding, holding, dipping, marking and taking care of all sheep quarantined under the provisions of this Article, must be paid by the owner, agent, or person in charge of such sheep.

Sec. 2026. Whenever the Governor, by proclamation, quarantines sheep for inspection, as provided in the next section, any sheep brought into Montana, the Deputy Inspector of the county in which such sheep may come, must immediately inspect the same, and if he finds that they are infected with scab, or any other infectious disease, he must cause the same to be held within a certain limit or place in his said county, to be defined by him, until such disease has been eradicated, as provided in the next preceding section.

Sec. 2027. Whenever the Governor has reason to believe that any disease mentioned by this Article has become epidemic in certain localities in any other state or territory, or that conditions exist that render sheep likely to convey disease, he must thereupon by proclamation, designate such localities and prohibit the importation from them of any sheep into this State, except under such restrictions as he, after consultation with the Veterinary Surgeon, may deem proper. Any person who, after publication of such proclamation, knowingly receives in charge any such sheep from any of the prohibited districts and transports or conveys the same to and within the limits of any of the counties of this State, is punishable as provided in Chapter II., Title XV., Part I., of the Penal Code, and is liable for all damages that may be sustained by any person by reason of the importation or transportation of such prohibited sheep.

Sec. 2028. Upon issuing such proclamation the owners or persons in charge of any sheep being shipped into Montana, against which quarantine has been declared, must forthwith notify the Deputy Inspector of the county into which such sheep first come, of such arrival, and such owner or person in charge must not allow any sheep so quarantined to pass over or upon any public highway, or upon the ranges occupied by other sheep, or within five miles of any corral in which sheep are usually corralled until such sheep have first been inspected, and any person failing to comply with the provisions of this section is punishable as provided in Chapter II., Title XV., Part I., of the Penal Code, and is liable for all damages sustained by any person by reason of the failure to comply with the provisions of this section.

Sec. 2029. In no case must any scabby sheep be allowed to be removed from one point to another within any county, or from one county to another, or any sheep that have within one year been scabby, without a written certificate from the Deputy Inspector. Such sheep may be transferred and removed with the written consent of all the sheep owners or managers along the route, and in the vicinity of the proposed location, except those mentioned in the preceding section. Any person violating the provisions of this section is punishable as prescribed in Chapter II., Title XV., Part I., of the Penal Code.

Sec. 2030. Upon the arrival of any sheep into this State from any other country, State or Territory, the owner or agent in charge must immediately report to the Deputy Inspector of the county in which such sheep first come for inspection, and such deputy must immediately inspect the same. If the owner or agent fails to report for inspection, the person so offending is punishable as provided in Chapter II., Title XV., Part I., of the Penal Code. The expense of such inspection must be borne by the owner, and is a lien upon the sheep, which may be sold to satisfy the lien, as provided by law.

Sec. 2031. The Deputy Inspector in each county receives for his services, while necessarily employed in inspection, not exceeding eight dollars per day, which includes all traveling expenses, of whatever kind and nature, incurred in going to and from the places where such inspection is had. When a Deputy Veterinary Surgeon, as provided in Section 2004, of this Code, is permanently located in a county, it is his duty to perform the duties imposed in this Article upon Deputy Inspectors, and for his services receives the same compensation as the Deputy Inspector, which must be paid in the same manner.

Sec. 2032. Whenever any Deputy Inspector files in the office of the State Auditor proper vouchers, duly approved by the Veterinary Surgeon, setting forth:

1. The name in full of such Deputy Inspector.
2. The kind and nature of the services rendered.
3. The particular locality where the work was done.
4. The time when and the length of time employed.
5. The number of sheep inspected and the name of the owner or person in charge.
6. The disease or diseases treated, and the number treated for each disease, and the length of time of such treatment, and the result.
7. The amount claimed and the value of such services.

The State Auditor must audit the same, and if found correct, draw a warrant in favor of such Deputy Inspector, payable out of any moneys in the "Sheep Inspector and Indemnity Fund."

Sec. 2033. Every deputy appointed under the provisions of this Article, must keep a book, to be known as the "Inspection Record," in which he must enter and record all his official acts and proceedings. Such record must particularly show the name of the owner of every flock of sheep inspected, when the same was inspected, and the number in each flock, the result of such inspection, the names of the persons to whom certificates have been granted and when, and all orders and directions made in relation to any matters herein designated.

Sec. 2034. Any person who fails to comply with or disregards any order or directions made by any Deputy Inspector under the provisions of this Article, is punishable as provided in Chapter II., Title XV., Part I., of the Penal Code.

Sec. 2035. It is unlawful for any person to bring into the State any sheep infected with the scab or any other contagious disease. Every person so offending is punishable as provided in Chapter II., Title XV., Part I., of the Penal Code.

Sec. 2036. Every Deputy Inspector must, on or before the first day of August each year report to the State Veterinary Surgeon in writing, showing from his inspection record particularly the matters therein contained since his last report, and the Veterinary Surgeon must embody the information thus given, in his report to the Governor.

Sec. 2037. The Veterinary Surgeon, if necessary, may appoint more than one deputy inspector in a county, and may define the particular part of the county in which a deputy is to perform his duties, and any deputy appointed under the provisions of this Article who, under and by virtue of the powers conferred upon him by reason of such appointment, oppresses, wrongs or injures, any person is punishable as provided in Section 187, of the Penal Code.

Sec. 2038. The Board of County Commissioners at the time of the annual levy of taxes must levy a special tax not exceeding one half of one mill on a dollar, or so much thereof as is necessary on the assessed value of all sheep in the county, and the money collected from such tax constitutes the "Sheep Inspector and Indemnity Fund." Such tax must be collected in the same manner as other taxes and paid into the State treasury, as other State taxes are. The money in the "Sheep Inspector and Indemnity Fund" must be used in the payment of the salaries and expenses of the Deputy Sheep Inspector as provided in this Article and all other expenses arising thereunder except the salary of the State Veterinary Surgeon.

ARTICLE VII.

RAMS, HE-GOATS, AND DISEASED ANIMALS NOT TO RUN AT LARGE.

Section 2044. Rams and he-goats not to run at large.
" *2045. Penalty.*
" *2046. Liability to civil damages.*
" *2047. Diseased animals not to run at large.*

Sec. 2044. It is unlawful for any owner or person having the management or control of any ram or he-goat to permit the same to run at large between the first day of August and the first day of December of each year.

Sec. 2045. Any person violating the provisions of this Article is guilty of a misdemeanor, and on conviction thereof must be punished as provided in Section 731, of the Penal Code.

Sec. 2046. Any person damaged by rams or he-goats running at large during the time mentioned in the first section of this Article, may recover in a civil action any damages sustained thereby.

Sec. 2047. It is unlawful for the owner or for any person having in charge any horse, mule, ass, sheep or cattle affected with any contagious disease to allow such diseased animal to run on any range, or within any enclosure where such animals may come in contact with any other animal not so diseased. All animals so affected with contagious disease must be at once removed by the owner thereof, or the person in charge of the same, to some secure inside inclosure, where contact with other animals by reaching over or through the fence of said enclosure will be impossible, or must be strictly herded six miles away from any farm or from any other stock running at large or being herded. Every person who knowingly neglects or refuses to remove or to so inclose or herd away from farms or other stock such diseased animals affected with contagious disease, after having received notice of their diseased condition, is punishable as provided in Section 435, of the Penal Code, and is liable for damages to the party injured.

ARTICLE VIII.

BOUNTY FOR KILLING WILD ANIMALS.

Section 2060. Bounty for killing wild animals.
“ 2061. Exhibition of skin.
“ 2062. Affidavit and bounty certificate.
“ 2063. Affidavit of freeholders.
“ 2064. Justice of the peace to punch ears.
“ 2065. Justice of the peace to make certificate.
“ 2066. Justice of the peace to keep record of skins.
“ 2067. Justice of the peace to require proof.
“ 2068. Proof of genuineness of skin.
“ 2069. Penalty for forging.
“ 2070. Same for patching.
“ 2071. Same for perjury.

Sec. 2060. There must be paid out of the county treasury for the killing of the animals hereinafter mentioned in the county the following bounties: For each mountain lion, five dollars; for each bear, five dollars; for each wolf or coyote, two dollars; for each wildcat, lynx, or bobcat, one dollar.

Sec. 2061. Any person killing any such animals for the purpose of obtaining the bounty thereon, must within ninety days from the date of killing, exhibit the entire skin of said animal, including the tail, and the skin from the forehead, embracing the ears of each animal, to any justice of the peace of the county in which such animal was killed.

Sec. 2062. Any person presenting to any justice of the peace of the county, the skin of any such animal for the purpose of obtaining bounty thereon, must at the time, file with said justice of the peace, his affidavit setting forth, that affiant killed, or caused to be killed, the animal from which the skin was taken, that the same was killed within the bounds of the county in which the application for the certificate is made, which certificate must be substantially in the following form:

BOUNTY CERTIFICATE.

STATE OF MONTANA, }
COUNTY of——. } ss.

I, ——, justice of the peace of the county of———, do hereby certify that———has exhibited to me this———day of ——A. D. 18——, the skin———of———of———and has filed with me his affidavit that he killed, within ninety days from this date the animal——from which the above mentioned skin———taken, and that the same———killed in the above named county. And I further certify that I have carefully examined and punched the ears of the above mentioned skin——according to law, in the presence of———, of the county of———, whose name is hereto subscribed.

————————.

Justice of the Peace.

Witness———, County———.

Sec. 2063. The justice of the peace must, before issuing any certificates to any person for the killing of any of the above mentioned animals, require the affidavit of two freeholders, residents of said county, that they are acquainted with the person exhibiting the skin, that to the best of their belief the animal from which such skin was taken, was killed within the limits of the said county.

Sec. 2064. The justice of the peace, with any disinterested freeholder of the county, whose duty it is to be present, must minutely examine each skin presented in order to prevent fraud, and if said persons, after careful examination, find that the scalp and ears belonging to each skin have not been severed, patched or punched, the justice of the peace must then, in the presence of the said freeholder herein named, mark each ear by punching a hole one inch in diameter in the same, and then must deliver said skin to the owner.

Sec. 2065. The justice of the peace must then and there make out and deliver to such owner a certificate, showing the number and kind of skin so punched; such certificate must be duly signed by him in his official capacity, and must be attested by the said freeholder. The justice of the peace is entitled to receive the sum of twenty-five cents for each and every skin punched, which is full compensation for all services rendered by him, including affidavits and certificates, which must be paid by the party to whom the certificate is issued.

Sec. 2066. It is the duty of the justice of the peace to keep a record in a bound book for the purpose, of all skins so punched, showing dates, number, and kinds of skins so punched, name of owner, and of the witness, and said book must be delivered to his successor on the expiration of his term of office.

Sec. 2067. Whenever any justice of the peace has reason to believe that any person presenting the skin of any of the above-mentioned animals for the purpose of obtaining bounty thereon, has evaded any of the provisions of this Article, or seeks to obtain the bounty thereon unlawfully, it is his duty to require from such person satisfactory evidence of the time, place and manner of the killing of said animal.

Sec. 2068. Claims for bounty must be presented to and examined by the Board of County Commissioners and if correct paid like other claims against the county. The county treasurer must keep an account of all bounty warrants issued and paid.

Sec. 2069. Any person who falsely makes, alters, forges, or counterfeits any of the certificates mentioned in this Article is guilty of forgery, and is punishable as provided in the Penal Code, Section 526.

Sec. 2070. Any person who patches up any skin or scalp, with intention to defraud the State, or signs any certificates herein provided for, without first counting the skins, or intentionally evades any of the provisions of this Article, is guilty of a misdemeanor, and is punishable as provided in the Penal Code, Section 714.

Sec. 2071. Any person who swears falsely as a witness, or procures the same to be done by another, for the purpose of obtaining or procuring from any justice of the peace of this State a certificate as in this Article mentioned, is guilty of perjury, or subornation of perjury, as the case may be, and is punishable as provided in the Penal Code, Section 142.

ARTICLE IX.

GAME AND FISH.

Section 2073. Penalties.

Sec. 2073. The law relating to the protection of game and fish is provided in Chapter I., Title XV., Part I., of the Penal Code.

ARTICLE X.

GAME AND FISH WARDEN.

Section 2075. Appointment of.
" 2076. Duties of.
" 2077. Suspension of.
" 2078. Compensation of.
" 2079. When offense prosecuted.
" 2080. Bond of.

Sec. 2075. Upon petition being made to the Board of County Commissioners of any county, signed by not less than one hundred resident tax payers of the county, and requesting the appointment of a game and fish warden for the county, the Board of County Commissioners, if in their judgment the best interests of the county demand it, may appoint a game and fish warden, who holds office for not more than twelve nor less than three months. The length of his term of office is fixed in the appointment.

Sec. 2076. His duties are to examine into and to inquire about any violations of the game and fish laws of the State in the county for which he is appointed, and to institute prosecutions for any violations of the law, and he is vested with all the powers of a sheriff in making arrests and in the prosecutions of all offenses against the game and fish laws of the State.

Sec. 2077. The game and fish warden may be removed or temporarily suspended by the board upon proof of his incompetency or neglect of duty, or whenever in its judgment his services are not necessary.

Sec. 2078. His compensation must not exceed one hundred dollars per month, and may be allowed by the board as other accounts, and must be paid out of the general fund; he may also receive the sums allowed by law to informers in all prosecutions which he institutes under the game and fish laws, and in which the fine imposed and the costs of prosecution are collected.

Sec. 2079. Whenever any offense is committed against the game and fish laws of the State, upon any river, lake, stream or body of water, which is the boundary between different counties of the State, or which lies partly in one county and partly in another, the jurisdiction for the prosecution of such offense is in either county bordering upon such lake, river, stream or body of water.

Sec. 2080. Any person appointed game and fish warden under the provisions of this Article, must before entering upon the discharge of the duties, give a bond to the State, which bond must be approved by the Board of County Commissioners and filed in the office of the county clerk in the county where such game and fish warden is appointed, and in a sum to be fixed by the board, and not to exceed one thousand dollars.

CHAPTER VI.

STANDARD WEIGHTS AND MEASURES.

Section 2085. What are standards.
" *2086. Unit of extension.*
" *2087. Unit of yard.*
" *2088. Rod, mile and chain.*
" *2089. Acre.*

Section 2090. Unit of weights.
“ *2091. Division of a pound.*
“ *2092. Unit of liquid measure.*
“ *2093. Barrel and hogshead.*
“ *2094. Unit of solid measure.*
“ *2095. Unit of half bushel.*
“ *2096. Division of capacity for commodities sold by heap measure.*
“ *2097. Heap measure.*
“ *2098. Contracts construed.*
“ *2099. Weight of bushel of various products.*
“ *2100. Weights and measures inspected by county sealer*
“ *2101. Penalties.*

Sec. 2085. The weights and measures accepted and used by the government of the United States at the present time, except as hereinafter provided, are the lawful standard weights and measures of the State.

Sec. 2080. The standard yard is the unit or standard measure of length and surface from which all other measures of extension, whether lineal, superficial, or solid, are derived and ascertained.

Sec. 2087. The yard is divided into three equal parts, called feet, and each foot into twelve equal parts, called inches: for measures of cloths and other commodities commonly sold by the yard, it may be divided into halves, quarters, eighths, and sixteenths.

Sec. 2088. The rod, pole, or perch, contains five and a half yards, and the mile one thousand, seven hundred and sixty yards; the chain for measuring land is twenty-two yards long, and divided into one hundred equal parts, called links.

Sec. 2089. The acre for land measure must be measured horizontally, and contains ten square chains, and is equivalent in area to a rectangle sixteen rods in length and ten in breadth: six hundred and forty acres being contained in a square mile.

Sec. 2090. The standard avoirdupois and troy weights are the units or standards of weight from which all other weights are derived and ascertained.

Sec. 2091. The avoirdupois pound, which bears to the troy pound the ratio of seven thousand to five thousand, seven hundred and sixty, is divided into sixteen equal parts, called ounces; the hundred weight consists of one hundred avoirdupois pounds, and twenty hundred weight constitute a ton. The troy ounce is equal to the twelfth part of the troy pound.

Sec. 2092. The standard gallon and its parts are the units or standards of measure of capacity for liquids, from which all other measures of liquids are derived and ascertained.

Sec. 2093. The barrel is equal to thirty-one and a half gallons, and two barrels constitute a hogshead.

Sec. 2094. The standard half bushel is the unit or standard measure of capacity for substances other than liquids, from which all other measures of such substances are derived and ascertained.

Sec. 2095. The peck, half peck, quarter peck, quart and pint measures for measuring commodities other than liquid are derived from the half bushel by successively dividing that measure by two.

Sec. 2096. The measures of capacity for charcoal, ashes, marl, manure, Indian corn in the ear, fruit, and roots of every kind, and for all other commodities commonly sold by heap measure, are the half bushel and its multiples and subdivisions; and the measures used to measure such commodities must be made cylindrical, with plane and even bottom, and must be of the following diameters from outside to outside: The bushel, nineteen and a half inches; half bushel, fifteen and a half inches, and the peck, twelve and a third inches.

Sec. 2097. All commodities sold by heap measure must be duly heaped up in the form of a cone; the outside of the measure, by which the same are measured, to be the limit of the base of the cone, and such cone to be as high as the article will admit.

Sec. 2098. Contracts made within this State for work to be done, or for anything to be sold or delivered by weight or measure, must be construed according to the foregoing standards.

Sec. 2099. The ton consists of twenty hundred pounds, but a ton of mineral coal is expressed by the conventional quantity of twenty-eight bushels of eighty pounds weight each. A bushel of each of the articles hereinafter named consists of the number of pounds affixed to each, to-wit:

	Pounds.
Apples and pears	45
Barley	48
Beans	60
Beets	50
Bran	20
Buckwheat	52
Carrots	50
Coal, mineral	80
Corn in the ear	70
Corn, shelled	56
Corn meal	50
Hay per ton	2000
Lime unslacked	80
Malt	30
Oats	32
Onions	57
Parsnips	50
Potatoes	60
Peas	60
Rye	56
Seeds:	
Blue grass	14
Clover	60
Timothy	45
Flax	56
Hemp	44
Hungarian grass	50
Salt	50
Turnips	50
Wheat	60

Sec. 2100. All venders and traders in goods and merchandise, gold dust and other articles of traffic, must have their balances, weights and measures compared with the standard of their respective counties, and approved and marked by the county sealer, and if the same are found to be correct to be sealed with the name or initial letters of the county inscribed thereon, or condemned by him if found incorrect and marked "condemned."

Sec. 2101. The penalties for using, marking, or stamping false weights and measures, or selling therewith is provided for in Chapter IX., Title XII., Part I., Penal Code.

CHAPTER VII.

TIME.

Section 2103. How computed,
" *2104. Leap year.*
" *2105. The year and its parts.*
" *2106. The week.*
" *2107. The day.*
" *2108. "Day time" and "Night time" defined.*

Sec. 2103. Time is computed according to the Gregorian or new style; and the first day of January in every year passed since seventeen hundred and fifty-two, or to come, must be reckoned as the first day of the year.

Sec. 2104. Except the year nineteen hundred, every fourth year, which, by usage in this State, is considered a leap year, is a leap year consisting of three hundred and sixty-six days.

Sec. 2105. The term "year" means a period of three hundred and sixty-five days; a half year, one hundred and eighty-two days; a quarter of a year, ninety-one days; and the added day of a leap year, and the day immediately preceding, if they occur in any such period, must be reckoned together as one day.

Sec. 2106. A week consists of seven consecutive days.

Sec. 2107. A day is the period of time between any midnight and the midnight following.

Sec. 2108. "Day time" is the period of time between "sunrise" and "sunset," and "night time" is the period of time between "sunset" and "sunrise."

CHAPTER VIII.

MONEY OF ACCOUNT.

Section 2110. Money of account.
" *2111. Limitation on preceding section.*
" *2112. Amount, how stated in judgments, etc.*

Sec. 2110. The money of account of this State is the doldar, cent and mill. Public accounts and all proceedings in courts must be kept and had in conformity to this regulation.

Sec. 2111. The provisions of the preceding section do not vitiate or affect any account, charge, or entry originally made, or any note, bond, or other instrument expressed in any other money of account; but the same must be reduced to dollars and cents in any action.

Sec. 2112. In judgments and executions the amount thereof must be computed and stated as near as may be in dollars and cents, rejecting fractions of a cent.

CHAPTER IX.

TRADE MARKS.

Section 2115. Trade mark defined.
" 2116. Use of trade mark, how secured, affidavit and filing.
" 2117. Record by Secretary of State.
" 2118. Who are owners of trade marks: how transferred.
" 2119. Penalties.

Sec. 2115. The phrase "Trade Mark," as used in this Chapter, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, other than any name, word, or expression generally denoting any goods to be of some particular class or description, or the designation or name for any mill, hotel, factory, or other business.

Sec. 2116. Any person may record any trade mark or name by filing with the Secretary of State his claim to the same, and a copy or description of such trade mark or name, with his affidavit attached thereto, certified to by any officer authorized to take acknowledgements of conveyances, setting forth that he (or the firm or corporation of which he is a member) is the exclusive owner, or agent of the owner, of such trade mark or name.

Sec. 2117. The Secretary of State must keep for public examination a record of all trade marks or names filed in the office, with the date when filed and name of claimant; and must, at the time of filing, collect from such claimant a fee of three dollars, to be paid into the State library fund.

Sec. 2118. Any person who has first adopted and used a trade mark or name, whether within or beyond the limits of this State, is its original owner. Such ownership may be transferred in the same manner as personal property, and is entitled to the same protection by suits at law; and any court of competent jurisdiction may restrain by injunction any use of trade marks or names in violation of this Chapter.

Sec. 2119. The penalty for forging, counterfeiting, or unlawfully using trade marks is provided in Section 386. of the Penal Code.

CHAPTER X.

LOCAL OPTION.

Section 2125. Election to be ordered upon application of one-third of the voters of any county.
" *2126. Notice of election; regulations; qualifications of voters.*
" *2127. Ballots, what to contain.*
" *2128. Election, how held.*
" *2129. Dealing in intoxicating liquors prohibited if majority of vote against sale.*
" *2130. No election more than once in two years.*
" *2131. Sales of liquors prohibited.*
" *2132. Penalty for violation.*
" *2133. Election, how contested.*

Sec. 2125. Upon application by petition, signed by one-third of the voters who are qualified to vote for members of the Legislative Assembly in any county in the State, the Board of County Commissioners must order an election to be held at the places of holding elections for county officers, to take place within forty days after the reception of such petition, to determine whether or not any spirituous or malt liquors, wine, or cider, or any intoxicating liquors or drinks may be sold within the limits of the county. No election, under this Chapter, must take place in any month in which general elections are held. The county commissioners must determine on the sufficiency of the petition presented by the last assessment roll of the county.

Sec. 2126. The notice of the election must be published once a week for four weeks in such newspapers of the county where the election is to be held as the board may think proper.

Sec. 2127. The county clerk must furnish the ballots to be cast at such election, as provided in the general election law, which ballots must contain the following words: "Sale of intoxicating liquors, yes;" "Sale of intoxicating liquors, no;" and the elector in order to vote must mark an X opposite one of the answers.

Sec. 2128. The polling places must be established, the judges and other officers to conduct the election must be designated, and the election must be held, canvassed and returned in all respects in conformity to the general election law, as provided in Title II., Part III., of this Code. No new registration is required, but the provisions of Sections 707 and 708, of this Code, apply.

Sec. 2129. If a majority of the votes cast are "Sale of Intoxicating Liquors, no," the Board of County Commissioners must publish the result once a week for four weeks in the paper in which the notice of the election was given. The provisions of this Chapter take effect at the expiration of the time of the publication of the notice, and no license must be issued pending the publication.

Sec. 2130. No other election must be held in the same county oftener than once in two years thereafter.

Sec. 2131. If a majority of the votes at the election are, "Sale of Intoxicating liquors, no," it shall not be lawful for any person within the county in which the vote was taken, to sell, either directly or indirectly, or give away, to induce trade at any place of business, or furnish to any person, any alcoholic, spirituous, malt, or intoxicating liquors.

Sec. 2132. If a majority of the votes at the election are, "Sale of Intoxicating Liquors, no," then any person violating the provisions of this Chapter is guilty of a misdemeanor, and is punishable as prescribed by the Penal Code.

Sec. 2133. Any election held under the provisions of this Chapter may be contested in the same manner as prescribed in Title II., Part III., of the Code of Civil Procedure.

CHAPTER XI.

POOR.

Section 2140. The Board of County Commissioners vested with control.
" *2141. Relatives to care for poor, penalty for neglect.*
" *2142. Intemperate person not entitled to support.*
" *2143. When a person may receive relief from the county.*
" *2144. Order to publish notice for proposals to care for the poor.*
" *2145. Bids to be received annually and contract to be let to the lowest responsible bidder.*
" *2146. Contract for medicines and medical attendance.*
" *2147. Board may reject any bid.*
" *2148. Bond of contractor. Duty of physician to examine and notify contractor.*
" *2149. Persons falling sick to be cared for.*
" *2150. Application of persons seeking relief.*
" *2151. Persons belonging to another county to be removed.*
" *2152. Non-residents furnished temporary relief.*
" *2153. Poor farm and work house.*
" *2154. Surplus moneys in poor fund.*

Sec. 2140. The Board of County Commissioners are vested with entire and exclusive superintendence of the poor.

Sec. 2141. Every person without means who is unable to earn a livelihood in consequence of bodily infirmity, idiocy, lunacy, or other cause, must be supported by the father, grandfather, mother, grandmother, children, grandchildren, brothers or sisters of such poor person, if they, or either of them, be of sufficient ability in the order named; and every person who fails or refuses to support his or her father, grandfather, mother, grandmother, child, sister or brother, in the order named, when directed by the Board of County Commissioners of the county where such poor person is found, whether such relative reside in the county or not, must pay to the county for the use of such poor person the sum of thirty dollars per month, which may be recovered in the name of the county.

Sec. 2142. When any person becomes poor from intemperance or other vice, he is not entitled to any support from relatives, except from parent or child.

Sec. 2143. When such person does not have the relatives mentioned in Section 2140, in any county, or such relatives are not able, or fail or refuse to maintain such person, then he must receive relief from the county, as hereinafter provided.

Sec. 2144. The board must; at their session in September, make an order directing the clerk of the board to publish a notice in a newspaper, inviting sealed proposals for the care, support and maintenance of the sick, poor and infirm of the county, per capita, by the week, for the succeeding year; and said proposals to include the entire cost of feeding, clothing and nursing of the sick, poor and infirm, and the burial expenses; and the notice must be published in a newspaper printed in the county for four consecutive weeks, at least once a week.

Sec. 2145. The proposals must be addressed to the clerk of the board, and the board must annually, at their December session, award the contract for the care, support and maintenance of the sick, poor and infirm of the county, to the lowest responsible bidder for the ensuing year.

Sec. 2146. The board must annually, at their December meeting, make a contract with some resident practicing physician to furnish medical attendance to the sick, poor and infirm of the county, and to the inmates of the county jail, and must also make provisions for the furnishing of medicines to the same.

Sec. 2147. The board may reject the bid of, and refuse to contract with any person whom they deem unsuitable as a contractor under the three next preceding sections.

Sec. 2148. Any person with whom any such contract is made, must execute a bond to the State, in a sum not less than one thousand nor more than five thousand dollars, with two or more sureties, conditioned for the faithful performance of his contract; said bond to be approved by and filed with the chairman of the board. It is the duty of the physician with whom the contract for medical attendance is made, to examine each week any person who is a charge upon the county, and, if after such examination he is satisfied that such person is able to support and maintain himself, he must so notify the contractor having the person in charge, by leaving with the contractor a notice of the fact that such person requires no further medical attendance, and file a duplicate thereof with the clerk of the board. After the serving of said notice, and filing the duplicate thereof with the clerk, the person mentioned therein ceases to be a charge upon the county.

Sec. 2149. When any non-resident without means is sick within any county in this State, and not able to pay his board, nursing, or medical attendance, the board must, on application being made, give assistance to such person as is necessary, and if the person dies, the board must give him a decent burial, and make allowance for the expenses incurred and order the same to be paid out of the county treasury.

Sec. 2150. Any person seeking relief must make application to any member of the board, who, before granting an order for relief, must require satisfactory evidence that he has been a resident of the county for two months immediately preceding the day upon which the application is made.

Sec. 2151. When application is made, if it appears to the satisfaction of the board that the person applying has resided in the county for two months, he is entitled to the relief provided by this Chapter; but if on examination it appears that the applicant is a resident of some other county of the State, the board must, at the expense of the county, cause him to be removed to the county of which he is a resident.

Sec. 2152. Persons who have not been residents of a county two months may be furnished relief by the commissioners in cases of extreme necessity and destitution.

Sec. 2153. The board may purchase, improve and keep in repair a tract of land not exceeding one hundred and sixty acres, to be known as a poor farm, and to erect thereon suitable work houses for the use, health and employment of all persons as are a county charge, and the poor farm, with the work houses and the persons who are a county charge, must be under such rules and regulations as the board orders; and may also provide for the care, support and maintenance of the sick, poor and infirm of the county upon the poor farm.

Sec. 2154. Any surplus that may accumulate in the poor fund of the county may be set apart and applied to the purposes of the next preceding section.

CHAPTER XII.

FIRE WARDEN, FIRES AND FIREMEN.

Section 2155. Appointment of and duties of fire warden.
" 2156. Dangerous chimneys, etc., to be removed, etc., penalty for violating.

Section 2157. Fire companies, how organized.
" *2158. Elect officers, make by-laws, exempt firemen.*
" *2159. County clerk may issue exempt certificates.*
" *2160. Seal and record of membership.*
" *2161. Duties of chief.*
" *2162. Woods and fields on fire.*
" *2163. Special tax.*

Sec. 2155. The Board of County Commissioners must, upon petition of ten residents of any unincorporated city, town, or village in the county, appoint a fire warden for such city, town, or village, whose duty it is to examine all chimneys, stoves, stove pipes, ovens, furnaces, boilers, and appurtenances thereto belonging.

Sec. 2156. When any chimney, stove, stove pipe, oven, furnace, boiler, or appurtenance thereto, are defective, out of repair, or so placed in any building as to endanger it or any other building by communicating fire thereto, the fire warden, on complaint of any citizen, either orally or in writing, or upon his own examination, or other satisfactory proof, must give written notice to the owner or occupant of the building or premises, directing the owner or occupant to repair the same so as to make it secure against accident by fire; and he may in the notice require the occupant or owner to replace any defective flue or stove pipe with a new and safe one; and if the occupant or owner neglects for the space of three day to comply with the terms of said notice, is punishable as provided in Section 715, of the Penal Code.

Sec. 2157. Fire companies in incorporated cities and towns are formed and organized under special laws, or under authority conferred upon the city or town government. Those in unincorporated towns and villages are organized by filing, with the county clerk of the county in which they are located, a certificate in writing, signed by the foreman or presiding officer and secretary, setting forth the date of the organization, name, officers, and roll of active and honorary members, which certificate and filing must be renewed every three months. There must not be allowed to any such towns or villages more than one company for each one thousand inhabitants; but one company must be allowed in any city, town or village where the population is less than one thousand. There must not be allowed to any fire company more than twenty-eight certificate members.

Sec. 2158. Every such fire company must choose or elect a foreman, who is the presiding officer, and a secretary and treasurer, and may establish and adopt by-laws and regulations, and impose penalties, not exceeding five dollars, or expulsion for each offense. The officers and members of unpaid fire companies regularly organized, and exempt firemen, are entitled to the following privileges and exemptions, viz: Exemption from payment of poll tax, road tax, and head tax of every description; exemption from jury duty; exemption from military duty, except in case of war, invasion, or insurrection. Every fireman who has served five years in an organized fire company in this State is an "exempt fireman," and must receive from the chief engineer of the department to which he belonged a certificate to that effect. Every active fireman must have a certificate of that fact, signed by the chief of the fire department or the foreman of the company to which he belongs; such certificates must be countersigned by the secretary, and over the seal of the company, if one is provided. Each certificate entitles the holder to exemption from military and jury duty.

Sec. 2159. In lieu of issuing certificates to exempt firemen by the chief of the fire department, as provided in the last section, on the certificate of the foreman and secretary of any fire company, or the chief of the department, provision being made therefor in the by-laws of the company, "exempt certificates" may be issued by the clerk of the county, over his official seal and signature, which entitles the holder to like exemption from military and jury duty.

Sec. 2160. Every fire department regularly organized may adopt a department seal, the name of the particular fire department to which it belongs, which must be under the control of and for the use of the secretary, and be by him affixed to exempt certificates, certificates of active membership, and such other documents as the by-laws may provide. The secretary of every department having a seal must take the constitutional oath of office and give such bond as the by-laws provide for the faithful performance of his duties. The secretary of the fire department, or fire company, must keep a record of all certificates of exemption or active membership, the date thereof, and to whom issued; and when no seal is provided, similar entries of certificates issued to obtain county clerk's certificates. Every such certificate is *prima facie* evidence of the facts therein stated.

Sec. 2161. The chief of every fire department must inquire into the cause of every fire occurring in the town of which he is the chief, and keep a record thereof; he must aid in the enforcement of all fire ordinances duly enacted, examine buildings in process of erection, report violations of ordinances relating to prevention or extinguishment of fires, and, when directed by the proper authorities, institute prosecutions therefor, and perform such other duties as may be by proper authority imposed upon him. His compensation, if any, must be fixed and paid by the city or town authorities. He must attend all fires, with his badge of office conspicuously displayed; must prevent injury to, take charge of, and preserve all property rescued from fires, and return the same to the owner thereof on the payment of the expenses incurred in saving and keeping the same, the amount thereof, when not agreed to, to be fixed by any justice of the peace.

Sec. 2162. Every person negligently setting fire to his own grass, field or woods, or negligently suffering any fire to extend beyond his own land, is liable in treble damages to the party injured. Whenever the woods or fields are on fire, any justice of the peace, constable, or road supervisor of the township or district where the fire exists, may order as many of the inhabitants liable to road poll tax, residing in the vicinity, as may be deemed necessary, to repair to the place of the fire and assist in extinguishing or stopping it.

Sec. 2163. The Board of County Commissioners are authorized to establish the fire limits in any unincorporated town or village, and at the time of the annual levy of taxes may levy a special tax upon all the property within such limits for the purpose of buying apparatus and maintaining the fire department of any such town or village, and such tax must be collected as are other taxes.

CHAPTER XIII.

FENCES.

Section 2166. Legal fences defined.
" *2167. Penalty for violation.*
" *2168. Barbed wire fences to be kept in repair.*
" *2169. Partition fences.*
" *2170. Partition fences to be maintained at joint expense.*
" *2171. Fence when joint occupancy ceases.*
" *2172. When partition fence removed.*
" *2173. Repairs of partition fences.*
" *2174. Liability of owners of stock for trespass.*
" *2175. Stock trespassing may be retained.*

Sec. 2166. The following are legal fences, and must not be less than four and one-half feet in height:

1. All fences constructed of at least one strong pole, rail or board, and three of either barbed wires or strong poles, rails or boards, or both, so that there be three altogether thereunder, which lower three, whether all barbed wires or poles, rails or boards and barbed wires, may be arranged at the pleasure of the builder; but all must be firmly fastened as nearly as equidistant as possible to substantial posts firmly set in the ground not more than twenty feet apart, or set to well supported substantial leaning posts, not more than twenty feet apart. But the lower pole, rail, board or barbed wire must not be more than one foot and a half above the ground.

2. All fences constructed of at least four barbed wires, the lowest of which must not be more than one foot and a half above the ground, securely fastened as nearly equidistant as

possible to substantial posts firmly set in the ground, at a distance not exceeding thirty feet apart, with pickets at least five feet in length, interwoven in or fastened to said wires, between each two of said posts in such manner that there must not be more than five feet space between such pickets or posts and pickets.

3. All substantial worm fences and stone walls.

4. All rivers, hedges, mountain ridges and bluffs, or other barriers over or through which it is impossible for stock to pass. But none of the fences hereinbefore described are legal for stock yards, or places where either grain, hay or straw is kept, but such place must be inclosed by a fence at least six feet high, constructed of one strong pole, board or rail, with at least five strong rails, poles, boards, or barbed wires thereunder, securely fastened, as nearly equidistant apart as possible, to substantial posts, firmly set in the ground, not more than fourteen feet apart.

Sec. 2167. Any person constructing or maintaining any fence of any kind not described in the next preceding section, is liable in a civil action for all damages caused by reason of injury to stock, resulting from such defective fence.

Sec. 2168. The owners of barbed wire fences must keep the same in repair, and any person receiving notice in writing, that his barbed wire fence or any part thereof is down, or in such condition as to be likely to injure any live stock, and fails or refuses to repair such fence, is liable to pay damages in an amount equal to the value of any cattle, horse, mule, or other domestic animal which may be injured by coming into contact with the fence.

Sec. 2169. The occupants of adjoining lands enclosed with fences must build and maintain partition fences between their own and the next adjoining enclosure in equal shares, so long as both continue to enclose the same; and such partition fence must be kept in good repair throughout the year, unless the occupants otherwise mutually agree.

Sec. 2170. If any occupant of land adjoining the enclosure of another enclose the same, upon the enclosure of such other person, he must, within three months thereafter, build his proportion of such partition fence, or refund to the owner thereof an equal proportion of the value, at that time, of any partition fence of such adjoining occupant.

Sec. 2171. Whenever any lands belonging to different persons in severalty, have been enclosed and occupied in common, or without a partition fence between them, and one of such occupants desires to occupy his part in severalty, the other occupant must, within six months after being notified in writing, build and maintain his proportion of such partition fence as may be necessary for that purpose; and in case of neglect or refusal so to do, the person giving such notice may build such fence at the expense of the person so neglecting or refusing, the amount expended to be recovered in an action, together with all damage he may sustain on account of such neglect or refusal.

Sec. 2172. If the occupants of adjoining lands have heretofore built or hereafter build their respective portions of a partition fence, and either of them at any time desires to suffer the land occupied by him to lie open, he may, after having given to the occupants of the adjoining land at least six months' notice of his intention so to do, remove his proportion of the partition fence, unless such adjoining occupant pay or tenders to him the value thereof; and if such fence be removed without notice, or after payment or tender of the value as aforesaid, the person removing the same is liable to the person injured for all damages he may sustain thereby.

Sec. 2173. In case any person neglects or refuses to repair or rebuild any partition fence which by law he ought to build or maintain, the occupant of the adjoining land may, after giving sixty days' notice that a new fence should be erected, or five days' notice in writing that the repairing of such fence is necessary, build or repair such fence at the expense of the party so neglecting or refusing, the amount so expended to be recovered from him; and the party so neglecting or refusing, after receipt by him of the notice above provided, is liable to the party injured for all damages he may sustain thereby.

Sec. 2174. If any cattle, horse, mule, ass, hog, sheep, or other domestic animal break into any enclosure, the fence being legal, as hereinfore provided, the owner of such animal is liable for all damages to the owner or occupant of the enclosure which may be sustained thereby. This section must not be construed so as to require a legal fence in order to maintain an action for injury done by animals running at large contrary to law.

Sec. 2175. If any such animal breaks into an enclosure surrounded by a legal fence, or is wrongfully upon the premises of another, the owner or occupant of the enclosure or premises may take into his possession the animal tresspassing, and keep the same until all damages, together with reasonable charges for keeping and feeding. Any person who takes or rescues any such animal from the possession of the person in whose custody the same may be, without his consent, is liable to a penalty of not less than five nor more than twenty-five dollars for each of the animals so rescued, which may be recovered by such occupant or owner in any court of competent jurisdiction. Within twenty-four hours after taking such animal into his possession, the owner or occupant must give notice to the claimant of the animal, that he has taken up the animal, if known, or if unknown, he must post a like notice at some public place near the premises.

CHAPTER XIV.

TOLL FOR GRINDING GRAIN.

Section 2180. Rate of toll.
" *2181. Owner or occupant accountable for grain.*
" *2182. Penalty.*

Sec. 2180. The owner or occupant of any grist mill within this State is entitled to the one-sixth part of all the wheat, rye, or other grain ground and bolted, and to the one-eighth part of all rye, malt, buckwheat, corn, barley, other grain or peas ground or chopped only.

Sec. 2181. The owner or occupant of every mill is accountable for the safe keeping of all grain received in the mill for the purpose of being ground therein, and must deliver the same when ground, or ground and bolted, with the bags or sacks which were delivered in the mill with the grain, to the owner when called for. The bags or sacks must be distinctly marked with the initials or surname of the owner. But the owner or occupant of any mill must not be charged with or made accountable for the loss of any grain, bags, or sacks which may happen by robbery, fire or other accident, without the fault or neglect of such owner or occupant, or his employe.

Sec. 2182. If the owner or occupant, or his employe, takes a greater proportionate quantity of toll than authorized, he is guilty of larceny, and is punishable as provided in the Penal Code.

CHAPTER XV.

TREE PLANTING AND ARBORICULTURE.

Section 2185. Arbor Day.
" *2186. Damage to planted trees.*

Sec. 2185. For the pupose of advancing the interests of tree planting and arboriculture in this State, the third Tuesday of April is hereby designated as Arbor Day, and it is the duty of the Governor to annually make his proclamation setting apart that day for the planting of trees and for beautifying homes, cemeteries, highways, public grounds and landscapes, and the teachers in the public schools must on that day instruct the pupils as to the importance of tree planting and give practical lessons in landscape gardening.

Sec. 2186. In case of any damage done to planted trees by animals, the owner of the trees may recover damages from the owner of the animals, if said trees are planted inside of a lawful fence or boxed to a height of not less than five feet.

CHAPTER XVI.

STATISTICS.

Section *2190. Auditor to prepare table of statistics.*
" *2191. All officers to answer questions of Auditor relating thereto.*
" *2192. Duty of assessors to collect statistics, enumeration thereof.*
" *2193. Duties of various officers.*
" *2194. Penalties for non-performance of duties.*

Sec. 2190. The State Auditor must annually prepare from the official reports and from other reliable sources to which he may obtain access, as full tables of the statistics of the State as may be in his power, and report the result of his labors to the Governor.

Sec. 2191. In order to insure a more perfect collection of the statistical information contemplated by this Chapter, every officer within this State must answer fully and promptly the special and general questions the State Auditor may propound in carrying out the objects mentioned in this Chapter, and no person must receive any compensation for answering such questions.

Sec. 2192. The county assessor must annually, at the time of taking the list of personal property for taxation, take from each person a statement of the number of acres he had the preceding year in wheat, rye, barley, corn, oats, peas, buckwheat and any other grain, and potatoes, and the number of bushels of each produced during the preceding year; the number of acres in cabbage, rutabagas, turnips, onions or other vegetables, and the number of pounds produced in the preceding year, and the the number of acres of meadow in cultivation; the number of tons of hay cut; the number of milch cows used in dairy; the number of pounds of cheese and butter produced; the number of sheep and the number of pounds of wool shorn; the number of fruit trees and the number of bushels of each kind of fruit produced; the number of ranches and the wages paid per month; gross receipts from placer mines and wages paid per day; number of grist mills and number of sacks of flour manufactured; number of saw mills and number of thousand feet of lumber cut; number of tan yards and number of sides of leather manufactured; number of foundries and number of tons of castings produced; number of wagons manufactured, number of carpenter shops, and wages paid per day; number of harness and saddlery shops, and value of manufactures; number of blacksmith shops and wages paid per month; number of silversmith shops, and wages paid per month; number of coal mines and number of tons taken out; number of reduction works, furnaces or quartz mills, and the number of tons of bullion produced and the value thereof; the number of manufacturers of every kind, not hereinbefore mentioned; number of butcher shops, and the number of beeves, calves, sheep and hogs slaughtered; number of pounds of bacon cured; number of births and deaths, and the number of deaths resulting from natural causes, and the number from violence the previous year.

Sec. 2193. The county assessor must make return of all blanks containing statistical information, together with a full abstract of the same, to the State Auditor on the first Monday of November annually; and the State Auditor is hereby required to cause to be printed all the necessary blanks to enable the assessors to carry into effect the provisions of this Chapter, and to furnish the same to the assessor.

Sec. 2194. Any assessor failing to perform his duty as provided in this Chapter, forfeits his office and the sum of four hundred dollars, which may be recovered in an action brought by the Attorney General in the State, and his last quarterly salary must not be paid until such report is made.

CHAPTER XVII.

BOXES, BOTTLES AND SIPHONS.

Section 2200. Marks and devices to be filed with Secretary of State.
" 2201. Penalties.

Sec. 2200. Any person engaged in manufacturing, bottling or selling soda, mineral or aerated waters, cider, ginger ale or other aerated, non-intoxicating beverages in bottles or siphons with his name or other marks or devices branded, stamped, engraved, etched, blown, impressed or otherwise produced upon such bottles or siphons, or the boxes used by him, may have a trade mark for the same as provided in Chapter IX., Title VII., Part III., of this Code.

Sec. 2201. Every person who violates any of this Chapter is punishable as provided in Sections 386 and 390, of the Penal Code.

CHAPTER XVIII.

PAWN BROKERS AND JUNK DEALERS.

Section 2208. Interest pawn brokers may receive.
" 2209. Search warrant may issue.
" 2210. Service of.
" 2211. Same.
" 2212. Bond.
" 2213. Must keep register.
" 2214. Penalties.

Sec. 2208. No person must carry on the business of pawn broker or junk dealer by receiving goods pawned, or in pledge for loans, at any rate of interest above ten per cent. per annum, without first obtaining a license. There must be no other or greater amount received by any pawn broker or junk dealer, his employes or agents, for interest, commission, discount, storage, or caring for property pledged, than the rate of three per cent. per month.

Sec. 2209. Whenever any person makes oath before a magistrate, that any property belonging to him has been embezzled, or taken without his consent, and that he has reason to believe or suspect, and does suspect, that such property has been pledged with any pawnbroker or junk dealer, such magistrate, if satisfied, must issue his warrant to search for the property so taken, and if found, to seize and bring the same before him.

Sec. 2210. The officer to whom said warrant is directed and delivered, must execute the same and proceed in the same manner as in case of other search warrant.

Sec. 2211. Upon any property seized by virtue of such warrant being brought before the magistrate who issued the same, he must cause such property to be delivered to the person so claiming to be the owner thereof, on whose application the warrant was issued, on his executing a bond as hereinafter directed; and if such bond be not executed within forty-eight hours, the magistrate must cause the said property to be delivered to the person from whose possession it was taken.

Sec. 2212. The bond must be in a penal sum equal to double the value of the property claimed, with two sureties approved by the magistrate in favor of the person from whose possession the property was taken, with a condition that the claimant will on demand pay all damage that may be recovered against him in any suit to be brought within twenty days from the date of such bond, by the pawnbroker or junk dealer from whose possession the property was taken.

Sec. 2213. Every pawnbroker or junk dealer must keep a register, in which must be entered a description of every article pawned to him or purchased by him, with the date of the pawning or purchasing, date when the article must be redeemed, with the name of the person by whom the same was pawned, or by whom purchased, and the amount loaned thereon or paid therefor; and in case of the sale of any article pawned or pledged, the pawnbroker or junk dealer must enter upon said register the name of the purchaser, the time of the sale, the price paid therefor, and the register must always be open to the inspection and examination of any peace officer or other persons.

Sec. 2214. The penalties for a violation of any of the provisions of this Chapter are provided for in Chapter X., Title IX., Part I., of the Penal Code.

CHAPTER XIX.

ARBITRATION.

Section 2218. State Board of Arbitration.
" 2219. Who may be appointed.
" 2220. Oath, and how organized.
" 2221. Settlement of controversies.
" 2222. Application, how made.
" 2223. Report.
" 2224. The decision, when binding.
" 2225. Parties may agree to special board of arbitration.
" 2226. Compensation.

Sec. 2218. There is a State Board of Arbitration consisting of three members, whose term of office is two years, and until their successors are appointed and qualified. The board must be appointed by the Governor, with the advice and consent of the Senate.

Sec. 2219. One of the board must be an employer, or selected from some association representing employers of labor; and one of them must be a laborer, or selected from some labor organization, and not an employer of labor, and the other must be a disinterested citizen.

Sec. 2220. The members of the board must, before entering upon the duties of their office take the oath required by the Constitution, and elect one of the members president, and one as clerk of the board. The board may establish such rules or modes of proceedings as are necessary, subject to the approval of the Governor.

Sec. 2221. Whenever any controversy or dispute, not involving questions which may be the subject of a civil action, exists between an employer (if he employes twenty or more in the same general line of business in the State) and his employes, the board must, on application as is hereinafter provided, visit the locality of the dispute and make inquiry into the cause thereof, hear all persons interested therein who may come before them, advise the respective parties what, if anything, ought to be done, by either or both, to adjust said dispute, and the board must make a written decision thereon. The decision must at once be made public, and must be recorded in a book kept by the clerk of the board, and a statement thereof published in the annual report and the board must cause a copy thereof to be filed with the clerk of the county where the dispute arose.

Sec. 2222. The application to the Board of Arbitration must be signed by the employer, or by a majority of his employes in the department of the business in which the controversy or dispute exists, or by both parties, and must contain a concise statement of the grievances complained of, and a promise to continue on in business or at work, without any lockout or strike until the decision of the board, if such decision is made within four weeks of the date of filing of the application. Immediately upon the receipt of said application the clerk of the board must cause public notice to be given of the time and place of the hearing. If the petition or petitioners fail to to continue business or work as set out in the application made, the board must proceed no further without the written consent of the adverse party.

Sec. 2223. The board must make an annual report, to be made to the Governor on or before the first Monday of November.

Sec. 2224. Any decision made by the board is binding upon the parties who join in the application for six months, or until either party has given the other notice in writing of his intention not to be bound by the same at the expiration of sixty days therefrom. The notice must be given to employes by posting the same in three conspicuous places in the shop, office, factory, store, mill or mine where the employes work.

Sec. 2225. The parties to any controversy or dispute may agree upon a special board of arbitration, who in the matters referred to them have and may exercise all powers which said board might have and exercise, and the jurisdiction of the matter referred to them is exclusive. The report of any board constituted under the provisions of this section must at once be filed with the clerk of the county in which the controversy or difference arose, and a copy thereof must be forwarded to the State board and entered upon its records.

Sec. 2226. The arbitrators hereby created must be paid five dollars for each day of actual service and their necessary traveling expenses and necessary books or record, to be paid out of the treasury of the State, as by law provided.

CHAPTER XX.

REGULATION OF COAL MINES.

Section 2230. Maps of coal mines to be furnished Inspector.
" *2231. Additions to the map to be made, when.*
" *2232. Failure to provide maps.*
" *2233. Coal mine escapes.*
" *2234. Escapes how constructed.*
" *2235. Ventilation of coal mines.*
" *2236. Ventilation enforced by the Inspector.*
" *2237. Examination for explosive gases.*
" *2238. Unlawful working of coal mines.*
" *2239. Foreman must have certificate from Inspector and incompetent persons not to be employed.*
" *2240. Ventilation furnaces, how built.*
" *2241. Hoisting and lowering into the mine.*
" *2242. Signals, cage, how loaded, and protection.*

Section 2243. Same.
" *2244. Penalties.*
" *2245. State to furnish appliances.*

Sec. 2230. The owner or operator of any coal mine in the State, must make, or cause to be made, an accurate map or plan of the mine, which must exhibit the openings or excavations, the shafts, slopes, or tunnels, the entries, rooms, or other workings, must show the direction of the air currents therein, accurately delineate the surface section lines of the coal lands controlled by the owner of said mines and show the exact relation to and proximity of the workings of said mine to said surface lines; said map, or plan, must also show the exact date of each survey made, and indicate the boundary line of the most advanced face of the workings at such date; and in case more than one seam of coal is opened or worked, a separate map or plan as aforesaid, must, if desired by the inspector, be made of the working in each seam. The map, or plan, or a true copy thereof, with the record of all surveys of said boundary lines and underground workings, must be delivered to the State Inspector of Mines, and the original or a true copy of the same must be retained for reference and inspection at the office of the coal mine. The maps and plans so delivered to the Inspector of Mines are the property of the State, and must be transferred to his successor in office. Maps of mines filed with the Inspector must be open to the examination of the public in the presence of the Inspector, but in no case must any copy of the same be made without the consent of the owner, operator, or his agent.

Sec. 2231. After the maps and plans herein provided are completed, thereafter in July of each year, the owner or operator of every coal mine must cause surveys to be made of all alterations and extensions of the workings made during the year preceding, and must have the records and results of the survey duly entered upon the maps of the Inspector, and upon that kept at the mine. The said extensions must be placed upon the Inspector's map, and the map returned to the Inspector within thirty days from the completion of the survey. When any coal mine is worked out, and is about to be abandoned, the owner or operator must have the maps or plans thereof extended to include all the excavations made, showing the most advanced workings of every part of the mine and the relation of such boundaries to marked boundaries on the surface.

Sec. 2232. Whenever the owner or operator of any coal mine neglects or refuses to furnish the Inspector the map or plan of such coal mine, or the extensions thereto, as provided for in this Chapter, the Inspector is authorized to make, or cause to be made, an accurate map or plan of such coal mine, at the expense of the owner, and the cost may be recovered.

from the owner or operator, in the same manner as other debts, in the name of the State.

Sec. 2233. For all coal mines in this State, when more than six men are employed, other than the owners or operators of such mine, whether worked by shaft, slope, or drift, there must be provided and maintained in addition to the hoisting shaft or opening, a separate escapement shaft or opening to the surface, or an underground opening or communication between every such mine and some other contiguous mine, as may be approved by the Mine Inspector, as coming within the requirements of this Chapter, which openings constitute two separate and available means of ingress and egress to all persons employed in the mine, and all passage-ways communicating with the escapement shaft, or places of exit from main hauling-ways to escapement shafts, must be at least five feet wide and five feet high.

Sec. 2234. Every escapement shaft must be separated from the main shaft by such extent of natural strata as shall secure safety to the men employed in such mines, and provided with either stairways, or cages and hoisting apparatus, as in the judgment of the Inspector of Mines may be sufficient to insure the safe and speedy removal of all persons within the mine in case of danger. No obstructions of any kind must be permitted in any escapement shaft that would in any way impede travel through the same. The time allowed for completing such escapement shaft or making such communication with an adjacent mine, as is required by the terms of this Chapter, is for all mines already opened or in process of development on the sixth day of March, 1891, one year for sinking any shaft two hundred feet or less in depth, and one additional year or pro rata portion thereof for every additional two hundred feet, or fraction thereof; but for mines which are opened after the passage of this Act, the time allowed shall be two years for all shafts more than two hundred feet in depth, and one year for all shafts two hundred feet or less in depth, and the time must be reckoned in all cases from the date on which coal is first hoisted from the original shaft for sale or use, and it is the duty of the Inspector of Mines to see that all escapement shafts are begun in time to secure the completion within the time herein specified.

Sec. 2235. The owner or operator of every coal mine, whether operated by shaft, slope or drift, must provide and maintain for every such mine a good and sufficient amount of ventilation for men and animals employed therein; the amount of air in circulation to be in no case less than one hundred cubic feet for each man, and six hundred cubic feet for each animal per minute, measured at the foot of the down cast, and the same to be increased at the discretion of the Inspector according to the character and extent of the workings, or to the amount of powder used in blasting, and the volume of air must be forced and circulated to the face of every working place throughout the mine, so that the mine is free from standing powder smoke and gases of every kind. All doors set on main entries for the purpose of conducting ventilations must be so constructed and hung as to close of themselves when opened, and must be made sufficiently tight to effectually obstruct the air currents.

Sec. 2236. In all the larger mines, a suitable person as door-keeper must be kept in attendance upon such doors, to see that they are kept securely closed and the air currents properly controlled. Whenever the Inspector finds men working without sufficient air or under any unsafe conditions, he must first give the owner or operator a reasonable notice to rectify the same; upon the neglect or refusal of the owner or operator of the mine to put the same in a safe condition, as required by the Inspector, the Inspector must proceed by an action to enjoin the further workings of the mine until the law is complied with. All actions for an injunction must be brought by the county attorney, or by the Attorney General in the name of the State.

Sec. 2237. All mines in which explosive gases are known to exist must be examined every morning by a duly authorized agent of the owner or operator, to determine whether there are any dangerous accumulations of gases or lack of ventilation or obstructions to roadways or any other dangerons conditions, and no person must be allowed to enter the mine until the agent has reported all the conditions safe for beginning work; the agent must make a daily record of the condition of the mine in a book kept for that purpose, which shall be open at all times to the examination of the Inspector. The current of air in mines must be split, so as to give a separate current to at least every one hundred men at work, and the Inspector has the discretion to order a separate current for a smaller number of men if special conditions render it necessary. In case the entries or roadways of any mine are so dry as to become filled with dust, the owner or operator of the mine is required to have such roadways regularly and thoroughly sprinkled, and it is the duty of the Inspector to see that in all mines every practicable precaution is taken against accidents from the careless handling of powder within the mine.

Sec. 2238. In no case must more powder be stored in the mine at any one time than in the discretion of the inspector is necessary for each day's use. It is unlawful for coal miners in any mine to charge a blasting hole with the loose powder or otherwise than with the properly constructed cartridge; and in dry and dusty mines it is unlawful to load cartridges in the mines except with powder cans constructed for the purpose. It is unlawful for the owner or operator of any mine to permit miners to work in said mines with tools prohibited by law. It is unlawful for any owner or operator of any mine where dangerous or explosive gases are known to exist to employ any person as foreman or boss of said mine, who does not possess a thorough, practical knowledge of the nature and danger of inflammable or explosive gases and understand the means and appliances for controlling them. It is unlawful for any person to act as foreman or mine boss of any mine in which inflammable gases are known to exist, who does not possess a thorough, practical knowledge of the nature and danger of inflammable or explosive gases, and understand the means and appliances for controlling them.

Sec. 2239. It is unlawful for any person to act as foreman or mine boss of any mine in which inflammable gases are known to exist who does not possess a certificate from the State Mine Inspector certifying to his cempetency for managing the underground workings of mines, together with a thorough knowledge of all gases met with in coal mines and of the most approved means of appliances for controlling them, and the Inspector of Mines is authorized to examine all foremen or mine bosses upon their competency under the provisions of this Chapter and issue his certificate to those whom he considers qualified to act as such foreman or boss within the meaning of this law. It is unlawful for any owner or operator of a coal mine to employ persons underground whose duties may involve contact with inflammable gases or the handling of explosives, who have not had experience in such duties, unless all such employes are placed under the immediate charge and instruction of such number of competent men as to secure the safety of other persons employed in the same mine.

Sec. 2240. The ventilation required by this Chapter may be produced by any suitable appliances, but in case a furnace is used for ventilating purposes it must be built in such a manner as to prevent the communication of fire to any part of the works by lining the upcast with incombustible material for a sufficient distance up from the furnace. It is unlawful to use a furnace for ventilating purposes or for any other purpose that emits smoke into any compartment constructed in or adjoining any hoisting shaft or slope where the hoisting shaft or slope is the only means provided for the ingress or egress of persons employed in said coal mines. It is unlawful where there is but one means of ingress and egress provided at a coal shaft or slope to construct and use a ventilating furnace that emits smoke into a shaft as an upcast where the shaft or slope used as a means of ingress and egress by persons employed in said coal mines is the only means provided for furnishing air for persons employed therein.

Sec. 2241. The owner or operator of a coal mine operated by shaft must provide safe means of hoisting and lowering persons in a cage covered with boiler iron, so as to keep safe as far as possible persons descending into and ascending out of said shaft, and said cage must be furnished with guides to conduct iron slides through such shaft, with a sufficient brake on every drum to prevent accident in case of the giving out or breaking of the machinery; and such cages must be furnished with safety catches intended and provided, as far as possble to prevent accident in case of cable breaking or the loosening or disconnecting of machinery. The owner or operator of every coal mine operated by shaft and steam power must place competent persons at the top and bottom of such shaft for the purpose of attending to signals while the men are being lowered or hoisted out of the mine; they must be at their post of duty at least thirty minutes before the hoisting of coal is commenced in the morning and remain at least thirty minutes after the hoisting of coal has ceased at night. It is also their duty to see that the men do not carry any tools, timber, or material with them on the cage, and that only the proper number of men are allowed upon the cage at one time. A sufficient light must be furnished at the top and bottom of the shaft to insure as far as possible the safety of persons getting on or off the cage.

Sec. 2242. A suitable code of signals between the bottom man and the top man and engineer must be established to provide and insure the safety of persons being lowered into and hoisted out of any shaft; said code of signals so established must be conspicuously posted at the top and bottom of the shaft and in the engine room. No person must ride upon a loaded cage or car used for hoisting purposes in any shaft or slope, and in no case must more than twelve persons ride in any cage or car at any one time, nor must any coal be hoisted out of any coal mine, except in cases where coal is being hoisted out of a slope which is not less than ten feet wide and only one track operated therein, while persons are descending into such mine. The number of persons permitted to ascend out of or descend into any coal mine at one time must be determined by the Inspector, and they must not be lowered or hoisted more rapidly than five hundred feet per minute. The top of each and every shaft and the entrance to each and every intermediate working vein must be securely fenced by gates, properly protecting such shaft and the entrance thereto, and the entrance to every abandoned slope, air or other shaft must be securely fenced off.

Sec. 2243. All underground, self-acting or engine planes, with single track, on which coal cars are drawn and persons travel, must be provided with proper means of signaling between the stopping places and ends of said planes, and sufficient places of refuge at the sides of such planes must be provided at intervals of not more than ten yards and all their other single planes or gangways, twenty yards, and they must not be less than six feet wide and whitewashed or otherwise distinguished from the surrounding walk. The bottom of every shaft must be supplied with a traveling way, to enable men to pass from one side of the shaft to the other without passing under or over the cage. All sumps must be securely planked over, so as to prevent accident.

Sec. 2244. Any person neglecting or refusing to perform the duties required by any of the provisions of this Chapter is punishable as provided in Section 445, of the Penal Code.

Sec. 2245. The Inspector of Mines is authorized to provide, at the expense of the State, all necessary air meters, barometers or other instruments for the use of himself and deputy in making all investigations and inspections, as required by this Chapter.

CHAPTER XXI.

REGULATING THE SALE OF COAL OR KEROSENE OIL.

Section 2250. Adulterated oil not to be sold: may be tested.
" 2251. Test, how made; illuminating gas outside of building not included.
" 2252. Penalties.

Sec. 2250. No person must sell, offer for sale, or have in his possession for sale within this State, any kerosene or coal oil, or any of the products thereof, which, from being adulterated, or from any cause will, at the temperature of one hundred and ten degrees, Fahrenheit's thermometer, emit an explosive vapor or gas, or is deficient in quality for illuminating purposes.

The State Sealer of Weights and Measures, or any county sealer, may order a test to be made of any such oil in the possession of any person dealing therein or offering the same for sale, and the expense thereof must be paid by the person offering it for sale.

Sec. 2251. The quantity used for such test must not be less than one-half pint. The provisions of this Chapter do not prevent the use of gas or vapor of oils for illuminating purposes, when the oils from which such gas or vapor is generated, is contained in reservoirs outside of the building illuminated by such gas.

Sec. 2252. Every person who violates the provisions of this Chapter is punishable as provided in Section 446, of the Penal Code.

CHAPTER XXII.

PROTECTION OF DISCHARGED EMPLOYES AND THE PREVENTION OF BLACKLISTING.

Section 2262. Protection of discharged employes.
" 2263. Blacklisting prohibited.
" 2264. Employe to be furnished reason of discharge.

Sec. 2262. If any person, after having discharged an employe from his service prevents, or attempts to prevent, by word or writing of any kind, such discharged employe from obtaining employment with any other person, such person is punishable as provided in Section 400, of the Penal Code, and is liable in punitive damages to such discharged person, to be recovered by civil action; no person is prohibited from informing, by word or writing, any person to whom such discharged person or employe has applied for employment, a truthful statement of the reason for such discharge.

Sec. 2263. If any company or corporation in this State authorizes or allows any of its agents to blacklist, or any person does blacklist, any discharged employe, or attempts by word or writing, or any other means whatever, to prevent any discharged employe, or any employe who may have voluntarily left said company's service, from obtaining employment with another person, except as provided for in the next preceding section, such company or corporation or person, is liable in punitive damages to such employe so prevented from obtaining employment, to be recovered by him in civil action; and is also punishable as provided in Section 400, of the Penal Code.

Sec. 2264. It is the duty of any person, after having discharged any employe from his service, upon demand by such discharged employe, to furnish him in writing a full, succinct and complete statement of the reason of his discharge, and if such person refuses so to do within a reasonable time after such demand, it is unlawful thereafter for such person to furnish any statement of the reason of such discharge to any person, or in any way to blacklist or to prevent such discharged person from procuring employment elsewhere, subject to the penalties and damages prescribed in this Chapter.

CHAPTER XXIII.

AUCTIONS.

Article I. Auctioneers.
" II. Regulations respecting sales.
" III. Frauds and penalties.

ARTICLE I.

AUCTIONEERS.

Section 2270. Who may become auctioneers, and how.
" 2271. The bond, sureties, approval, and filing.
" 2272. Government goods are exempt.
" 2273. Original application, how classified.
" 2274. Renewal of license.
" 2275. Renewal, for how long; exceeding class by sales.

Section 2276. Not to transfer license.
" *2277. Auctioneers ex officio.*
" *2278. Assistant, who may act and when.*

Sec. 2270. Any citizen of this State may become an auctioneer for the county in which he resides, and is authorized to sell real and personal property at public auction, on giving a bond in accordance with the provisions of this Article for the faithful performance of his duties, and on the payment of the license therefor.

Sec. 2271. The bond must be conditioned to be paid to the State of Montana, with one or more sureties, in the sum of five thousand dollars, and approved by the county clerk of the county in which the auctioneer proposes to do business, and filed in his office.

Sec. 2272. No auctioneers' license is required for the selling of any goods at public sale belonging to the United States, or to this State, or for the sale of property by virtue of any process issued by any State or Federal Court.

Sec. 2273. Every original application for auctioneers' license must be accompanied with a verified statement of the amount of sales proposed to be made monthly, and the license charge must be for the first quarter classified thereby.

Sec. 2274. Every auctioneer applying to the county treasurer for a renewal of his license must accompany the application with a statement, under oath, setting forth that his average receipts per month on account of sales during the preceding quarter did not exceed the amount specified in the class of license for which he applies. The county treasurer must provide blank forms of affidavit for that purpose, and administer the oath required to such applicants without charge.

Sec. 2275. After the first quarter, licenses may be issued for the class fixed for a term not exceeding one year, at the option of the auctioneer. No auctioneer must exceed the amount of sales of the class in which his license is fixed. For every violation of this section, in addition to the criminal penalty, the auctioneer forfeits two hundred and fifty dollars.

Sec. 2276. No auctioneer is permitted to transfer his license to any other person for any part of the time for which his license is issued; nor is any auctioneer permitted to use his license for the purpose of transacting an auction business in more than one store or specified place of business.

Sec. 2277. In any city or town where there is no auctioneer, the sheriff or a constable thereof is ex officio auctioneer, and is permitted to sell any property, real or personal, at public auction; and for any delinquency as such ex officio auctioneer he is liable on his official bond.

Sec. 2278. Every auctioneer, in case of inability to attend an auction by reason of sickness, or the performance of any duty imposed upon him by law, or during a temporary absence from the city or county within which he is auctioneer, may employ a co-partner or clerk to hold such auction in his name and behalf, such employe to take and file with the county clerk of the county an affidavit faithfully to perform the duties of auctioneer. But any auctioneer may employ a crier at any sale, for whose acts he shall be responsible.

ARTICLE II.

REGULATIONS RESPECTING SALES.

Section 2280. Auctioneers to designate places of business.
" *2281. To sell at no other place.*
" *2282. Power of city authorities.*
" *2283. Book for live stock.*
" *2284. Book of sales.*
" *2285. Commissions, and penalty of overcharge.*
" *2286. Quarterly report of sales.*

Sec. 2280. No auctioneer in any city of this State must have at one time more than one place for holding auction; and every such auctioneer, before acting as such, must file with the clerk of the county in which such city is situated a writing signed by him, designating such place, and naming therein the partners, if any, engaged with him in business.

Sec. 2281. No auctioneer must expose to sale any articles at any other place than that so designated, except goods sold in original packages as imported, household furniture, and such bulky articles as have usually been sold in warehouses, or in the public streets, or on the wharves.

Sec. 2282. The city council or other corresponding authority of each city may designate such place or places therein for the sale by auction of horses, carriages, and household furniture, as they deem expedient.

Sec. 2283. Every auctioneer who sells any animal of the horse kind, or any mules, must keep a book, in which he must register the name of each and every person bringing or offering any horse or mule to be sold, and the name of the person purchasing such horse or mule, together with the date of such sale, and a description of each horse or mule sold, together with the marks and brands. The book is a public record, subject to the inspection of any person desiring to inspect the same.

Sec. 2284. Each auctioneer must keep a book, in which he must enter all sales, showing the name of the owner of the goods sold, to whom sold, and the amount paid, and the date of each sale, which book must at all times be open for the inspection of any person interested therein.

Sec. 2285. No auctioneer must demand or receive a higher compensation for his services than a commission of one per cent. on the amount of any sales, public or private, made by him, unless by virtue of a previous agreement in writing between him and the owner or consignee. Every auctioneer who violates this section, in addition to the criminal penalty, forfeits to the party aggrieved two hundred and fifty dollars, and must refund the excess of charge.

Sec. 2286. Every auctioneer must quarterly make to the county clerk a report, under oath, showing:

1. The aggregate amount of auction sales made by him for the preceding quarter, designating the months and the amount for each month.
2. The days of each month on which auction sales were made, and the character of property sold by him during each month.
3. The amount of all private sales made, and the day on which they were made.
4. A statement of any partner, clerk or other employe connected with him in his business, and what sales, if any, have been conducted by them, and why; and
5. The particular place where his business is conducted.

ARTICLE III.

FRAUDS AND PENALTIES.

Section 2289. Penalty for not reporting, or reporting falsely.
" 2290. Penalties, how recovered, and for what.
" 2291. Action on bond.

Sec. 2289. For every false report made, and for every neglect to make the report required in the preceding Article, the auctioneer thereby forfeits the sum of two hundred and fifty dollars, to be recovered on his bond. The penalties relating to auctions and auctioneers are provided for in Sections 486 and 587, of the Penal Code.

Sec. 2290. The penalties imposed by the provisions of this Chapter, not otherwise appropriated, must be prosecuted for by the county attorney of the proper county, the moneys recovered to be paid to the county treasurer, for the use of the general fund of the county.

Sec. 2291. Any one aggrieved or damaged by any act of an auctioneer, in violation of, or contrary to the provisions of this Chapter, has an action against him and his bondsmen on his official bond therefor.

CHAPTER XXIV.

DAMS AND RESERVOIRS.

Section 2295. Dams and reservoirs, how constructed.
" 2296. Must be constructed in a substantial manner.
" 2297. Complaint, and persons appointed to examine dams and reservoirs.

Section 2298. Examination and report.
" *2299. Report, what to contain.*
" *2300. If dam insecure, proceedings.*
" *2301. Issues and trial.*
" *2302. Judgment.*
" *2303. New trial and appeal.*
" *2304. Water may be drawn off, pending an appeal.*
" *2305. Board of County Commissioners may appoint experts to examine dam.*
" *2306. Compensation of experts.*
" *2307. Duty of board when complaint filed.*
" *2308. Penalties.*

Sec. 2295. No person must fill or procure to be filled with water any reservoir which is not so thoroughly and substantially constructed as to safely and securely hold any water that may be turned therein.

Sec. 2296. No person must construct or cause to be constructed a dam or reservoir for accumulating water except in a thorough, secure and substantial manner.

Sec. 2297. Upon complaint on oath, made by any person and filed in the District Court, that a person is filling or proposing or threatening to fill with water a reservoir, or has filled or gathered water in a reservoir, and that life and property are endangered, the judge must appoint three persons of the county in which such reservoir is situated, one of whom must be a mining or civil engineer, if possible, each of whom must take an oath that he will examine the dam and reservoir to determine as to its security, to the best of his ability.

Sec. 2298. It is the duty of the persons so appointed to make a thorough examination of the dam or reservoir, and if upon examination they find that persons or property are endangered by reason of the dam or reservoir, and it is not secure against the pressure of the water confined therein or the water that may be confined therein, or against rains and freshets that may occur, and if they find that the same is secure against the occurrence of the casualties mentioned, or any of them, they must make a report in writing to the judge, which must be entered of record as a proceeding in court.

Sec. 2299. If, upon such examination as to the safety of such reservoir, they consider such reservoir insufficient and insecure, they must further inquire whether the danger to be apprehended is imminent, and if they are of the opinion that such danger is imminent, and that destruction of life or property may result from delay, it is their duty forthwith to draw from such reservoir the waters therein, or so much thereof as will insure safety, and they must make return of their action to the judge; and in the discharge of such duties the persons so acting are peace officers.

Sec. 2300. If, upon such examination, they are of opinion that such dam or reservoir is insecure and insufficient, but that the danger therefrom is not immediate or imminent, they must so state in their report to the judge, who must thereupon cause a copy of the report to be served on the owner or person in charge thereof, with a notice requiring him to make the same secure, or to draw the water therefrom without delay; and unless such order is complied with after hearing, the judge may order the sheriff to draw from said dam or reservoir the waters thereof.

Sec. 2301. The owner of the dam or reservoir may answer the complaint and an issue may be joined at the hearing and the question of the security and sufficiency of the dam or reservoir may be tried before the court or jury as in other cases.

Sec. 2302. If the jury find the dam or reservoir insufficient or insecure, judgment must be entered thereon, declaring such dam or reservoir a nuisance and that all the water be drawn therefrom. Costs may be taxed as in other cases to the losing party.

Sec. 2303. Any party to the proceedings may move for a new trial and appeal as in other cases.

Sec. 2304. The judge may, after the verdict of the jury and pending an appeal, order that the water be drawn from the reservoir so as to make the same secure and safe until the final determination of the proceedings.

Sec. 2305. Whenever any person is constructing a dam or reservoir, and complaint is made to the Board of County Commissioners that the same is being built in an insecure and unsafe manner, and dangerous to life or property, or that when constructed will be insecure and dangerous, it is the duty of the board to appoint three experts under whose supervision the dam or reservoir must be constructed, and such reservoir must not be filled with water, nor shall any water be allowed to flow therein until the owner thereof has filed in the office of the county clerk a certificate, signed by a majority of the persons so appointed, to the effect that such dam or reservoir is constructed in a proper manner and is safe and secure.

Sec. 2306. The persons acting as such experts are entitled to a reasonable compensation for their services, to be allowed by the board and paid by the owners of the dam or reservoir.

Sec. 2307. Whenever such complaint is made to the board of commissioners it is the duty of the board, in case such dam or reservoir is not being constructed in a safe and secure manner, to proceed against the owner or persons constructing the same in the manner provided for in this Chapter, and any person may file a complaint and proceed against any such owner of or person constructing such dam or reservoir, as provided in this Chapter.

Sec. 2308. Any person violating any of the provisions of this Chapter is punishable as provided in Section 449, of the

Penal Code, and if death ensue by reason of any of the acts prohibited by this Chapter, the person guilty of the same may be convicted of murder, manslaughter or any other felony as the case may be.

TITLE VIII.

THE PUBLIC LAND OF THE STATE.

Section 2320. The State Board of Land Commissioners, how composed.
" *2321. Duties.*
" *2322. Same.*
" *2323. Must provide maps and plats, and classify lands.*
" *2324. Lands and funds to be marked on map.*
" *2325. Selling and leasing.*
" *2326. Selections must be made in legal subdivisions.*
" *2327. Books to be made showing character of land.*
" *2328. Lands may be disposed of at public auction.*
" *2329. Notice of sale to be published.*
" *2330. Sale must take place at county seat, and thirty per cent. of purchase price paid.*
" *2331. Purchaser must pay treasurer, penalty for not paying.*
" *2332. Bond must be given for balance due.*
" *2333. Patent must be issued on production of certificate.*
" *2334. Lost certificate.*
" *2335. Unpaid balance due on bond, how enforced.*
" *2336. Board to hear and determine claims.*
" *2337. Unsold lots may be sold at appraised value.*
" *2338. May be sold again.*
" *2339. Land with improvements may be sold to owner.*
" *2340. State may purchase.*
" *2341. Lands, how assessed for five years.*
" *2342. Money paid must be invested for benefit of fund.*
" *2343. Board may lease lands.*
" *2344. County commissioners to appoint appraisers; appraisement and fees of appraisers.*
" *2345. County clerk must file appraisement.*
" *2346. County treasurer may sell lands, give notice, etc.*
" *2347. Certain officers forbidden to purchase or lease.*
" *2348. Lands adjacent to city or town, how sold.*
" *2349. Owner of improvements may remove same.*
" *2350. Duty of county superintendent to report condition of school lands.*

Section 2351. Right of way may be granted through State lands, how.
" 2352. Alternate lots may be sold, in town additions.
" 2353. Reports.
" 2354. Occupant has the preference in buying or leasing.
" 2355. Leasing of grazing lands.
" 2356. Funds must be inviolate and not transferred.
" 2357. Proceeds of sale, how invested.
" 2358. Patents and leases, how signed and issued.
" 2359. Expenses, how paid.
" 2360. Who guilty of perjury.
" 2361. Penalty for trespass or injury to State land.
" 2362. Purchaser liable for waste.
" 2363. Fines and forfeitures, into what fund paid.
" 2364. Meaning of lands of State.

Sec. 2320. The Governor, the Superintendent of Public Instruction, the Secretary of State, and the Attorney General constitute the State Board of Land Commissioners, which has direction, control, and power to lease or sell any of the school lands of the State, and the lands granted, or which may hereafter be granted for separate and various State educational institutions under the regulations provided in this Title.

Sec. 2321. It is the duty of the board to provide for the selection, leasing, sale, or other disposition of all lands heretofore or which may hereafter be granted to the State of Montana by the United States or otherwise, under such regulations as may be prescribed by law, and in such manner as may secure the maximum possible amount provided therefor. No land heretofore granted the State must be sold for less than ten dollars per acre, but where land is not worth such sum, it may be leased for a term not exceeding five years, and at a rental to be determined by the board.

Sec. 2322. The Governor is president of the board, and the Superintendent of Public Instruction is the secretary, and the meetings of the board may be regulated by such rules as the board adopts. The board must keep a record of its proceedings in a book kept for that purpose, and must preserve all papers and documents submitted to it. The board must designate what lands selected by the State shall be assigned to each specific fund, designated in grants made by the United States, and keep all maps, plats, books, records, documents and papers pertaining to the office, subject at all times to inspection by the public. The board must be furnished by the State with all necessary blanks, books and stationery, and all the necessary expenses attending the examination, survey, location and sale of State lands must be paid on the warrants of the Auditor issued on vouchers certified by the State board after being allowed by the Board of Examiners.

Sec. 2323. The board must provide as complete a set of plats for field use as may be necessary, of the surveyed lands of the State, together with such blanks as may be necessary for the examination of said lands; must ascertain what part of the unappropriated government lands in the State are capable of irrigation, and the sources and reliability of the supply of water for the same; and must select what lands may be suitable under the various grants made by the United States to the State, and must classify the lands upon the maps and plats so prepared, according to the classification made by the Constitution of the State of Montana, to-wit:

1. Grazing lands.
2. Timber lands.
3. Agricultural lands.
4. Lands lying within the limits of any town or city, or within three miles of such limits, and the board must as often as once in five years, reclassify the lands, so that at no time must any of the lands be sold under a different classification from that to which they belong.

Sec. 2324. The maps and plats prepared by the board, as above provided must also contain a classification of the lands according to the respective funds or State institutions to which said lands belong, and must be marked upon maps and plats with the name of the fund to which they belong; and it is the duty of the board to select or cause to be selected, lands in lieu of those settled upon, and disposed of by the United States in Sections 16 and 36; the lands selected to be as contiguous as possible to the section in lieu of which the same is taken, and such selections so made of lieu lands must be certified to the register and receiver of the proper United States land office by the board.

Sec. 2325. If, under the provisions of this Title, any of the lands granted are advertised for sale by the board, and at such sale no bid is received equal to or exceeding the sum of ten dollars per acre, the same must not be sold, but may be leased for a term not exceeding five years. In leasing the land the board may accept the highest price bid by any person desiring to lease the same, and the person so leasing, thereupon must sign a written contract of lease, binding himself and his heirs to keep the said land for the full period for which the same is leased to him.

Sec. 2326. All selections of land must be made in legal subdivisions, and when the selection has been made and approved by the board, the Governor must take the necessary steps to procure the approval of the Secretary of the Interior, and the issuance of patents for the same by the United States to the State of Montana.

Sec. 2327. When the lands have been selected for the respective purposes mentioned in the Act of Congress approved February 22, 1889, granting lands to the State of Montana, and the title of the same assured to the State, the board must cause to be prepared a complete set of maps and plats, which must be of a permanent character, and must also prepare a set of books showing the character of the soil, grass, timber, water, the source and supply of water for irrigation, the presence of stone, lime, or any useful mineral production, and in general all facts that may affect the value of the lands, and showing on the plats which lands have been selected under each specific grant of the United States, and for what particular purpose the same is selected, and also whether the lands belong to Subdivisons 1, 2, 3, or 4, of Section 1, of Article XVII., of the Constitution of the State, and when any reclassification of said lands is made the plats and books must be changed so as to show the reclassification.

Sec. 2328. The board may from time to time direct the sale of lands belonging to the State, and not otherwise directed to be disposed of, at public auction in such parcels as it deems best for the interest of the State and for the promotion of the settlement thereof, but not more than ten thousand acres must be sold at any one auction, and each lot of one hundred and sixty acres must be separately exposed to sale; smaller lots only must be sold when it is impossible to sell as above described, or when, in the judgment of the board, a larger price will be received for the sale of the land, and not more than one hundred and sixty acres must be sold to any one person, except as otherwise provided in this Chapter.

Sec. 2329. It is the duty of the board previous to every sale of land to prepare a statement descriptive of each lot, piece, tract, or parcel of land, and land must not be sold until such statement is prepared, and must also designate the newspaper in which the notice of the sale must be published, which must be published in the county in which the lands to be sold are situated, or, if there be no newspaper therein, then the board must designate at least one newspaper published nearest to such lands, and may also publish a like notice in a newspaper published at the seat of government. Such notice must be published once a week for at least four weeks prior to the day of sale, which notice must state the time, place and conditions of sale.

Sec. 2330. Sales of land belonging to the State must be held in the county in which the lands to be sold are situated, and at the place designated by the board at the county seat, and sold to the highest bidder, and the amount of purchase money to be paid at the time of sale must in no case be less than thirty per cent. of the whole purchase money. In the case of timber lands the whole of the purchase money must be paid at the time of the sale, and no timber land, must at any time be leased by the board, but must be sold in the manner provided by law at a price not less than ten dollars per acre.

Sec. 2331. Within twenty-four hours after each sale the purchaser of each lot or tract must pay to the county treasurer of the county in which the sale was made the first payment required, who must forthwith transmit the same to the State Treasurer and the purchaser execute a bond conditioned for the payment of the residue of the purchase money to the State of Montana in seven equal annual payments, with interest at the rate of seven per cent. per annum, which bond must be deposited with the State Auditor. If any person refuses or neglects to make such payment or to deliver the bond, he forfeits the sum of one hundred dollars for each lot so by him purchased, to be recovered with costs of suit instituted by the Attorney General in the name of the State of Montana; but the purchaser has the option of paying the whole amount of the purchase price.

Sec. 2332. The State Auditor, on the delivery to him of the bond, and on receipt of such payment by the Treasurer, must give such purchaser a certificate containing the name of the purchaser, a description of the land purchased, the amount paid, and the sum remaining due thereon.

Sec. 2333. Whenever a purchaser or his representative or assigns produces to the State Auditor a certificate, with the receipt of the Treasurer indorsed thereon, for the whole of the money due, it is the duty of the Auditor to cancel the bond executed by the purchaser, and letters patent for the land described must be issued to him or his heirs or assigns.

Sec. 2334. Whenever such certificate is lost or wrongfully withheld by any person from the owner thereof, the board may recive evidence of such loss or wrongful detention, and on satisfactory proof of the fact may cause a duplicate certificate or patent, as the case may be, to issue to the person who appears to be entitled to the land described in the original certificate.

Sec. 2335. If any payment stipulated in the bond received by the State Auditor remains unpaid for one year after the same is due, the board may direct the Attorney General to sue on the bond, or may sell again the land for the sum due. Such sale must not be made unless the occupation of the land has been abandoned for a year, and, in case of such sale, all previous payments made on account of such lands shall be forfeited to the particular fund to which the land may belong.

Sec. 2336. The board may hear and determine the claims of all persons to any land owned by the State, and has the power to establish such rules as may be proper to prevent fraudulent applications under this Chapter.

Sec. 2337. Whenever the board has exposed for sale at auction any lots or tract of lands, and any of such tracts or lots remain unsold, the board may issue certificates for the sale thereof to such persons, respectively, as thereafter make application, at not less than the appraised value.

Sec. 2338. Whenever any lot or tract of land has been put up for sale and no bids have been received for the same, and no application be made for the purchase within a reasonable time, the board may, if in its opinion the minimum price was fixed too high, reduce the same and again advertise the same for sale, but no such reduction must exceed ten per centum in any one year, nor must the price be reduced below ten dollars per acre.

Sec. 2339. Any person desiring to purchase land upon which he has made improvements prior to March 6, 1891, if the land was surveyed at that time, or if unsurveyed, then prior to the survey, must be allowed to deduct the appraised value of the improvements from the amount bid for the land and improvements, and in the event that any person purchases the land upon which such improvements have been made, the purchaser must pay the full price of the land and improvements to the State Treasurer, and the State Treasurer must pay the appraised value of the improvements to the person owning the same, and the price of said improvements must be paid in full at the time of the sale by the purchaser. The bid mentioned in this section must be for a sum equal to the amount of both the appraised value of the improvements and the minimum price of the land as fixed by the board. The improvements must be appraised as provided in Section 2344 of this Chapter.

Sec. 2340. Whenever the board sells any lot or tract of land for the purchase money due thereon, and the sum due for principal and interest is not bid therefor, it may purchase the same for the State at the amount due with the costs of the sale.

Sec. 2341. Any land sold, for five years after the sale thereof must not be assessed at any higher valuation than the estimate upon which they are sold, unless improvements within that time have been made thereon, in which case the value of the improvements must be added to the estimate.

Sec. 2342. All moneys arising from the sale of State lands must be paid to the State Treasurer and be invested by him for the benefit of the fund to which they may belong in the securities prescribed by this Chapter. And all payments of money made to the State Treasurer must be accompanied by a statement as to what fund said money shall be credited.

Sec. 2343. The board has the power to lease the lands of the State at a rate not less than five per cent. per annum (payable in advance) on the appraised value of the same, and must require of the lessee a bond to secure the State from loss or waste and in no case must the lessee be allowed to cut or waste more timber than is necessary for the improvement on the land or for fuel for the use of the family of the lessee.

Sec. 2344. Whenever ten householders of any school district in which any State land is situated, petition the board to sell the same or any part thereof, describing it, the board must direct the county commissioners of the county in which such land is situated, to cause the same to be appraised by three disinterested householders, each legal subdivision of the land being appraised separately, at its real value, and return the appraisement in writing, signed by them, to the clerk of the county; and in case any lot or tract of the lands has been improved, the appraisers must in addition to the appraisement of the land, return and file a separate appraisement of the improvements upon the land. The appraisers receive four dollars per day for the time actually employed in such appraisement, to be paid by warrants on the Auditor of State on the State treasury after being approved by the Board of Examiners.

Sec. 2345. The county clerk must immediately file the appraisement of the appraisers in his office, and record the same in a book kept for that purpose, and transmit a certified copy of the same to the State Board of Land Commissioners.

Sec. 2346. The Board of Land Commissioners may direct the county treasurer to sell the lands, and give notice of the sale as provided in this Chapter. All moneys arising from the sale of such lands by the county treasurer must be immediately transmitted to the State Treasurer, who must invest the same as provided in this Chapter.

Sec. 2347. It is unlawful for any member of the State Board of Land Commissioners, or of the county commissioners, county superintendent of common schools, or any persons appraising lands, or in the employ of the State for the selection, appraisal, sale or leasing of the State or school lands, to purchase or lease, directly or indirectly, any portion of the lands of the State.

Sec. 2348. Any State lands, situated in, or adjacent to, a city or town, may be surveyed or laid off in lots or blocks, streets, alleys, avenues, highways, or public squares, to conform to the legal subdivisions of such city or town, and the State Board of Land Commissioners must cause correct maps and plats of such lands to be made and recorded; when so surveyed and platted, and not otherwise, the board may, in its discretion, sell the same at public auction to the highest bidder. Each block or lot as numbered or platted upon the maps must be sold separately, and not until they have been appraised, and notice of the sale given in the same manner as prescribed in this Chapter, and such sales must be made upon the same terms as provided in this Chapter for the sale of other school lands.

Sec. 2349. Any person who, by affidavit or otherwise, shows to the board that he has a right to the improvements of any such lot or tract of land in good faith for the purpose of making for himself a home, has the preference right to purchase said lot or tract of land. The same must not exceed five acres in area, and at the highest price bid for said lot or tract of land by any other person.

Sec. 2350. It is the duty of the county superintendent of schools to report to the board, whenever required, the condition of the school lands in his county, showing the amount thereof, whether any part of the same is occupied and by whom; and it is the duty of the board to ascertain the amount of such lands occupied and rightfully held under any law of the United States by occupants thereof, and to make a selection of other lands in lieu thereof for the support of the public schools.

Sec. 2351. In any case where lands heretofore or may hereafter be purchased by, or donated to the State of Montana or may be purchased by, or may have been donated to the Territory of Montana, and the State of Montana remains the owner thereof, either for the erection of public buildings or other purposes, and it is deemed expedient to grant a right of way over and upon such lands, the Governor and Secretary of State are authorized to execute and sign, on behalf of the State a proper deed or other instrument of writing therefor, and if the owner of said land adjoining any such State land desires to lay out and subdivide any of his land into an addition to any city or town, or if the board desire to subdivide any of the State lands into any addition to any city or town, the said Governor and Secretary of State are authorized to execute the proper acquittances or other papers and join in the execution of a plat of such addition for the purpose of granting a right of way over and upon such lands.

Sec. 2352. The board must not sell lands subdivided or platted, or subdivided as an addition to any town, except in alternate lots containing five acres or less, and not more than one-half of any one tract of land subdivided and made an addition to any town, must be sold prior to the year 1910, but the other lots, tracts or parcels of land which have been subdivided, platted and surveyed as an addition to any town, may be leased under such terms and restrictions as may be prescribed by the board.

Sec. 2353. The board must annually, on or before the first Monday of November in each year, publish a full report of its transactions, showing the amount of lands belonging to the State, to what fund they belong, their value and the amount sold or leased during the year; and biennially must make a like report to the Legislative Assembly.

Sec. 2354. In all cases of the sale, leasing or other disposition of the school or other lands of the State by the board, it is the privilege of every occupant or settler upon any of such lands so to be sold or leased, to have the preference right of purchase or lease at the price bid by the highest bidder at such sale or leasing, and it is hereby made the duty of the Board of Land Commissioners to construe this section liberally with a view to the establishment of homes for actual settlers, and to prevent the said lands from being sold or leased to speculators.

Sec. 2355. Leases for lands of the first class, known as "grazing lands," shall not be for less than one section, or such part of the section as may be the property of the State. No lands must be leased under the provisions of this Chapter to any person not a citizen, or who has not declared his intention to become a citizen, of the United States. All occupants or settlers having improvements on grazing lands, and who do not wish to lease the same, have the privilege of disposing of or removing such improvements at any time within ninety days from the date of the lease.

Sec. 2356. All funds arising from the sale of State lands must be held inviolate for the purposes for which such lands were granted. After the lands have been selected and assigned, the fund arising from a sale of such lands must not be transferred to the credit of any other fund, nor must such proceeds of the sale or the leasing of said lands be applied to any other purpose than the one for which the lands were granted.

Sec. 2357. The proceeds arising from the sale of lands granted to the State for educational purposes, must be invested:

1. In bonds of the State of Montana.

2. In such bonds of the several counties of the State as the board deems most safe and secure.

3. In bonds of school districts within the State. Before any of such proceeds are invested in the bonds of any school district within the State, the board must be satisfied by statements of the trustees of the school district proposing to negotiate the sale of its bonds, that the bonds to be negotiated are the only bonds issued by the school district, and that the outstanding indebtedness of the school district does not exceed three per cent. upon the valuation of the property within the district.

4. Bonds of the United States or in first-class State bonds. The interest on all money arising from the sale or leasing of school lands must be used for the purposes for which the grant was made.

Sec. 2358. All patents for lands sold by the State must be signed by the Governor, attested by the Secretary of State, and the seal of the State of Montana, and such patent conveys to the grantee named therein all the right, title, interest, claim or demand of the State of Montana in and to the land therein conveyed. All leases of school or other lands must be made in the name of the State of Montana, and such leases must be signed by the Governor and attested by the Secretary of State under the great seal of the State. All such patents or leases are entitled to record without acknowledgment.

Sec. 2359. All expenses necessarily incurred by the board in the discharge of the duties mentioned in this Chapter, or otherwise, must be paid out of the State treasury, after being allowed by the Board of Examiners.

Sec. 2360. Every person appointed to select and appraise any State lands, who willfully and knowingly makes a false return of any survey or any appraisal of the value of land at variance from the true value thereof, or without having personally surveyed and examined the same, is punishable as provided in Section 134, of the Penal Code.

Sec. 2361. Every person who commits a trespass on or injury to any of the lands of the State, or the improvements thereon, is punishable as provided in Section 681, of the Penal Code. It is the duty of the county superintendent of common schools to report to the proper officer all offenses committed in his county relating to the public lands of the State.

Sec. 2362. If any purchaser of land, before receiving his title in fee simple therefor, cuts or destroys any timber upon said land, more than may be necessary for the building and repair of fences and houses on the land, or for fuel for the family of the occupant, he is liable to pay the amount of damages done to the land, to be recovered in an action in the name of the State, to be instituted by the Attorney General, or the county attorney of the county in which the land is situated.

Sec. 2363. All moneys received for fines, fees and forfeitures under this Chapter must be paid to the State Treasurer, and by him placed to the credit of the fund to which it belongs.

Sec. 2364. The words, "Public Lands of the State," mean all lands granted to the State by the United States for the support of common schools, including Sections 16 and 36 of every township and sections granted in lieu thereof, and all lands granted for educational and reformatory institutions and for public buildings at the seat of government of the State, and such other lands as may be hereafter granted to the State by the United States or by any person, and all lands of which the State may become the owner by operation of law.

TITLE IX.

MINES AND MINING.

Chapter I. The discovery and location of mining claims. The record and work.

" *II. Right of way.*

" *III. Safety apparatus.*

CHAPTER I.

THE DISCOVERY AND LOCATION OF MINING CLAIMS. THE RECORD AND WORK.

Section 2370. Location of mining claims. Notice of location, what to contain.
" *2371. Discovery shaft, boundaries, how made and of what to consist.*
" *2372. Declaratory statement, when and where filed, and what to contain.*
" *2373. Placer locations heretofore made, effect of.*
" *2374. Annual work, affidavit, what to contain and record.*
" *2375. Relocations, how made.*
" *2376. Official survey, certificate thereof, and made part of declaratory statement.*

Sec. 2370. Any person a citizen of the United States, or one who has declared his intentions to become such, who discovers a vein or lode bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, or who discovers or locates a placer deposit of gold, or other deposit of minerals, including building stone, limestone, marble, clay, sand, or other mineral substances having a commercial value, may locate a claim upon such vein, lode or deposit by defining the boundaries of the claim in the manner hereinafter described, and by posting a notice of such location at the point of discovery, which notice must contain:

1. The name of the lode or claim.
2. The name of the locator or locators.
3. The date of the location.
4. If a lode claim, the number of lineal feet claimed in length along the course of the vein each way from the point of discovery, with the width on each side of the center of the vein, and the general course of the vein or lode as near as may be.
5. If a placer or mill site claim, the number of acres or superficial feet claimed.

Sec. 2371. Before the expiration of ninety days from the date of posting such notice upon the claim the locator or locators must sink a discovery shaft upon the lode or claim (mill site claims excepted), to the depth of at least ten feet from the lowest part of the rim of such shaft at the surface, or deeper, if necessary to show a well defined crevice or valuable deposit. Its equivalent in work must be done upon placer claims. A cut, a cross-cut or a tunnel which cuts a lode at the depth of ten feet below the surface, or an open cut of at least ten feet in length along the lode from the point where the lode may be in any manner discovered, is equivalent to a discovery shaft. The locator or locators must define the boundaries of his or their claim by marking a tree or rock in place, or by setting a post or stone at each corner or angle of the claim. When a post is used it must be at least four inches square by four feet six inches in length, set one foot in the ground, with a mound of earth or stone four feet in diameter by two feet in height around the post. When a stone is used, not a rock in place, it must be at least six inches square and eighteen inches in length, set two-thirds of its length in the ground, which trees, stakes or monuments must be so marked as to designate the corners.

Sec. 2372. Within ninety days of the date of posting the location notice upon the claim, there must be filed in the office of the county clerk of the county in which the lode or claim is situated, a declaratory statement, which must contain:

1. The name of the lode or claim.

2. The name of the locator or locators.

3. The date of location, and such description of the location of said claim with reference to some natural object or permanent monument as will identify the claim.

4. If a lode claim, the number of lineal feet claimed in length along the course of the vein each way from the point of discovery, with the width on each side of the center of the vein, and the general course of the lode or vein as near as may be.

5. If a placer or mill site claim, the number of acres or superficial feet claimed.

6. The dimensions and location of the discovery shaft, or [illegible] upon lode and placer claims.

7. [illegible] each corner, with the [illegible]

[illegible]

2. The number of days' work done, and the character and value of the improvements placed thereon.

3. The date of performing such work and of making the improvements.

4. At whose instance the work was done or the improvements made.

5. The actual amount paid for work and improvements, by whom paid when the same was not done by the owner.

Such affidavits, or a certified copy thereof is *prima facie* evidence of the facts therein stated.

Sec. 2375. The re-location of an abandoned lode or placer claim must be made by sinking a new discovery shaft and fixing new boundaries in the same manner as if it were an original location made under this Chapter; or the re-locator may sink the original discovery shaft ten feet deeper, in which case the declaratory statement must give the depth and dimension of the original discovery shaft at the date of such relocation. In any case, whether the whole or part of an abandoned claim is taken, the declaratory statement may state that the whole or any part of the new location is located as abandoned property. If it is not known to the locator that his location is on an abandoned claim, then the provisions of this section do not apply.

Sec. 2376. Where a locator or owner of a mining claim has the boundaries and corners of his claim established by a United States Deputy Mineral Surveyor and his claim connected with a corner of the public or minor surveys or an established initial point, and incorporates into the declaratory statement the field notes of such survey, and attaches to and files with such declaratory statement, a certificate by the surveyor setting forth:

1. That said survey was actually made by him, giving the [illegible]

[illegible]

2386. *Report of commissioners* [illegible]

2387. *Right of way may be upon payment of damages assessed.*

Section 2388. Appeal from the assessment of damages, how taken.
" *2389. Trial on appeal.*
" *2390. Costs, how paid.*
" *2391. Final appeal may be taken to Supreme Court.*

Sec. 2380. The owner of a mining claim held under the laws of the United States by patent or otherwise, or under the local laws and customs of the State, has a right of way over and across the land or mining claim, patented or otherwise, of another, as prescribed in this Chapter.

Sec. 2381. Whenever a mine or mining claim is so situated that it cannot be conveniently worked without a road thereto, or a ditch to convey water thereto, or a ditch or a cut to convey the water therefrom, or without a flume to carry water and tailings therefrom, or without a shaft or a tunnel thereto, which road, ditch, cut, flume, shaft, or tunnel must necessarily pass over, under, through, or across any lands or mining claims owned or occupied by another, such owner is entitled to a right of way for said road, ditch, cut, flume, shaft or tunnel over, under, through and across the lands or mining claims belonging to another, upon compliance with the provisions of this Chapter.

Sec. 2382. Whenever such owner desires to work a mine or mining claim, and it is necessary to enable him to do so successfully and conveniently, that he should have a right of way for any of the purposes mentioned in the foregoing sections; and, if such right of way has not been acquired by agreement between him and the owner of the land or claims, over, under, across, and upon which he seeks to establish such right of way, it is lawful for him to present to the judge of the District Court a complaint asking that such right of way be awarded to him. The complaint must be verified and contain a particular description of the character and extent of the right sought, a description of the mine or mining claim of the owner, and the mining claim or claims and the lands to be affected by such right of way, with the names of the occupants or owners thereof, and may also set forth any tender or offer hereinafter mentioned.

Sec. 2383. Upon the receipt of the complaint, and filing [illegible] with the clerk of the court, the judge must direct a summons to issue to the defendants named in the complaint, requiring them to appear before the judge on a day therein named, which must not be less than ten days from the service thereof, and show cause why such right of way should not be granted; the summons may be served on each of the parties in the manner prescribed by law for serving summons in other cases.

Sec. 2384. Upon the return of the summons, or upon any [illegible] which the hearing is adjourned, the defendants may [illegible] answer, and issue must be joined, and the judge must hear the allegations and proofs of the respective parties, and, if upon such hearing, he is satisfied that the claims of the plaintiff can only be conveniently worked by means of the privilege asked for, he must make an order, adjudging and awarding to the plaintiff such right of way, and must appoint three commissioners, disinterested persons and residents of the county, to assess the damages to the lands or claims affected by such order.

Sec. 2385. The commissioners must be sworn to faithfully and impartially discharge their duties, and must without delay examine the property, lands and claims, and assess the damages resulting from such right of way, and report the amount to the judge, and if such right of way affects the property of more than one person, such report must contain an assessment of damages to each person.

Sec. 2386. For good cause shown the judge may set aside the report of the commissioners and appoint three other commissioners.

Sec. 2387. Upon the payment of the sum assessed as damages, and all costs, to the persons to whom it is awarded, or the payment of the same to the clerk for the use of such person, plaintiff is entitled to the right of way, and may immediately proceed to occupy the same and to erect thereon such works and structures and make therein such excavations as may be necessary to the use and enjoyment of the right of way so awarded.

Sec. 2388. An appeal from the assessment of damages made by the commissioners may be taken to the District Court by any party interested at any time within ten days after the filing of the report of the commissioners. A written notice of appeal must be filed with the clerk, and served upon the opposite party.

Sec. 2389. On appeal the question of the amount of damages may be tried by the court or jury as in other cases. If the appellant recovers damages exceeding the amount awarded by the commissioners, the opposite party must pay the costs of appeal, otherwise the appellant.

Sec. 2390. All costs and expenses of the proceedings under the provisions of this Chapter, except as provided in the next preceding section, must be paid by the plaintiff or party making the application. The judge may, if the right of way asked for is denied, allow the opposite party a reasonable counsel fee.

Sec. 2391. An appeal to the Supreme Court may be taken by either party, as in other cases.

CHAPTER III.

SAFETY APPARATUS.

Section 2395. Safety apparatus must be used in mines.
" 2396. Penalties.

Sec. 2398. It is unlawful for any person to sink or work [illegible] a greater depth than two hundred feet, unless the shaft is provided [illegible] to be used in [illegible]

Sec. 2399. The penalty for a violation of the provisions of the preceding section is provided in Section [illegible] Penal Code.

TITLE X.

REVENUE.

Chapter I. *Property liable to taxation.*
" II. *Definitions.*
" III. *Assessment of property.*
" IV. *Assessment of net proceeds of mines.*
" V. *Equalization of taxes.*
" VI. *Levy of taxes.*
" VII. *Duties of the county clerk in relation to revenue.*
" VIII. *Collection of property taxes.*
" IX. *Collection of taxes by the assessor on certain personal property.*
" X. *Poll taxes.*
" XI. *Settlements with State Auditor and payments into State treasury.*
" XII. *Miscellaneous provisions.*
" XIII. *Licenses.*

CHAPTER I.

PROPERTY LIABLE TO TAXATION.

Section 2400. Property subject to taxation.
" *2401. Exemptions.*
" *2402. Taxation of mines.*

Sec. 2400. All property in this State is subject to taxation, except as provided in the next section.

Sec. 2401. The property of the United States, the State, counties, cities, towns, school districts, municipal corporations, public libraries, such other property as is used exclusively for agricultural and horticultural societies, for educational purposes [illegible] religious worship, hospitals and places [illegible] not used or held for private or corporate profit, and [illegible] public churches are exempt from taxation, [illegible] for such other purposes and [illegible] used in mining and all property and surface improvements upon or appurtenant to mines and mining claims which have a value separate and independent of such mines or mining claims, and the annual net proceeds of all mines and mining claims shall be taxed as other personal property.

CHAPTER II.

DEFINITIONS.

Section 2407. Definition of terms.

Sec. 2407. Whenever the terms mentioned in this section are employed in this Title, they are employed in the sense hereafter affixed to them.

First—The term "property" includes moneys, credits, bonds, stocks, franchises and all other matters and things, real, personal and mixed, capable of private ownership; but this must not be construed so as to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by such stocks is within the State and has been taxed.

Second—The term "real estate" includes:

1. The possession of, claim to, ownership of, or right to, the possession of land.

2. All mines, minerals and quarries in and under the land, subject to the provisions of Section 2402, of this Title; all timber belonging to individuals or corporations growing or being on the lands of the United States, and all rights and privileges appertaining thereto.

3. Improvements.

Third—The term "improvements" includes:

All buildings, structures, fixtures, fences and improvements erected upon or affixed to the land, whether title has been acquired to said land or not.

Fourth—The term "personal property" includes everything which is the subject of ownership, not included within the meaning of the term "real estate" and "improvements."

Fifth—The terms "value" and "full cash value" mean the amount at which the property would be taken in payment of a just debt due from a solvent debtor.

Sixth—The term "credit" means those solvent debts, secured or unsecured, owing to a person.

The term "debts" means those secured or unsecured liabilities, owing by a person.

In making up the amount of credits which any person is required to list, he will be entitled to deduct from the gross amount the amount of all bona fide debts owing by him, but no acknowledgment of indebtedness not founded on actual consideration, and no such acknowledgment made for the purpose of being so deducted must be considered a debt within the intent of this section; and no person is entitled to a deduction on account of an obligation of any kind given to an insurance company for the premium of insurance, nor on account of any unpaid subscription to any institution or society, nor on account of a subscription to or installment payable on the capital stock of any company or corporation; and no liability of any person or persons as surety for another must be deducted; and no deduction must be made in any case unless the party claiming such deduction discloses to the assessor, under oath, the name or names of the persons to whom such party is indebted, and the amount of such indebtedness to each, and also that such indebtedness is not barred by the statute of limitations.

CHAPTER III.

ASSESSMENT OF PROPERTY.

Section 2410. Property assessed at cash value.
" *2411. Stock in corporations and stock companies, how assessed.*
" *2412. What deductions made.*
" *2413. How made.*
" *2414. National banks out of State.*
" *2415. Private banks to give statement.*
" *2416. Railroads, how assessed.*
" *2417. Land, how assessed. Mortgages, how assessed.*
" *2418. When assessment to be made. Credits must be assessed, how.*
" *2419. Statement what to contain.*
" *2420. County commissioners to furnish blanks, etc.*
" *2421. Statement to be filled and returned to assessor.*
" *2422. General power of assessor.*
" *2423. If statement refused, how assessment made.*
" *2424. Assessment of unknown or absent owners.*
" *2425. Same.*

Section 2426. Property situated in another county.
" *2427. Consigned property.*
" *2428. Trustees, guardians, executors, etc.*
" *2429. Property of a firm or corporation, where assesssed.*
" *2430. Undistributed property of deceased persons.*
" *2431. Capital stock and franchises of corporations, when assessed.*
" *2432. Personal property of merchant or manufacturer.*
" *2433. Property of express and stage companies, etc.*
" *2434. Gas and water companies.*
" *2435. Gas and water mains.*
" *2436. Street railroads, bridges and ferries.*
" *2437. Railroads, telegraph, telephone and electric light lines.*
" *2438. Live stock, when assessed.*
" *2439. Property and money in litigation.*
" *2440. Property concealed, etc.*
" *2441. Property not assessed the previous year.*
" *2442. Property, how listed.*
" *2443. Form of assessment book.*
" *2444. Assessment, when completed.*
" *2445. Map book.*
" *2446. Assessment and map book delivered to and kept by clerk.*
" *2447. Statement by assessor to State Board of Equalization.*
" *2448. Penalty.*
" *2449. Persons claiming ownership of property desiring to be assessed.*
" *2450. Commissioners to furnish assessor maps.*
" *2451. List of lands sold by State to be transmitted by State land agent.*
" *2452. Assessors liable for assessed property, when.*
" *2453. County attorney must prosecute.*
" *2454. Judgment, when entered against assessor.*
" *2455. Assessment of railroads.*
" *2456. Assessment, how made.*
" *2457. State Board of Equalization must transmit statement to county clerk.*
" *2458. What county commissioners must do.*
" *2459. Dissatisfied owners of railroads may apply again.*
" *2460. Record of assessment and apportionment.*
" *2461. Basis of taxation.*

Sec. 2410. All taxable property must be assessed at its full cash value. Land and the improvements thereon must be separately assessed.

Sec. 2411. The stockholders in every bank or banking association organized under the authority of this State or the United States, must be assessed and taxed on the value of their shares of stock therein, in the county, town, city or district where such bank or banking association is located, and not elsewhere, whether such stockholders reside in such place or not. To aid the assessor in determining the value of such shares of stock, the cashier or other accounting officer of every such bank must furnish a verified statement to the assessor, showing the amount and number of shares of the capital stock of each bank, the amount of its surplus or reserve fund, the amount of investments in real estate, which real estate must be assessed and taxed as other real estate.

Sec. 2412. In the assessment of the shares of stock mentioned in the next preceding section, each stockholder must be allowed all the deductions and exemptions allowed by law in assessing the value of other taxable personal property owned by individual citizens of this State, and the assessment and taxation must not be at a greater rate than is made or assessed upon other moneyed capital in the hands of individual citizens of this State.

Sec. 2413. In making such assessment, there must also be deducted from the value of such shares, such sum as is in the same proportion to such value as the assessed value of the real estate of such bank or banking association in which such shares are held, bears to the whole amount of the capital stock of such bank or banking association.

Sec. 2414. The shares of the capital stock of banks organized under the laws of the United States, not located in this State, owned by residents of this State, are not subject to taxation.

Sec. 2415. Every private banker, broker or dealer in stocks must make out and deliver to the assessor, when required to list personal property, a verified statement, containing:

1. The amount of money on hand or in transit.

2. The amount of funds in the hands of other banks, brokers, or others, subject to draft.

3. The amount of checks or cash items, the amount thereof not being included in either of the preceding items.

4. The amount of bills receivable, discounted or purchased, and other credits due or to become due, and accounts receivable.

5. The amount of bonds and stocks of every kind, except United States bonds, and shares of capital stock of joint stock or other companies or corporations, held as investment, or in any way representing assets.

6. All other property appertaining to said business, other than real estate, which real estate must be listed and assessed as other real estate is listed and assessed under this Title.

7. The amount of all deposits made by other persons in his custody.

8. The amount of all accounts payable other than current deposit accounts. The amount mentioned in Subdivision 7 must be deducted from the aggregate amount mentioned in Subdivisions 1, 2 and 3, and the remainder, if any, must be listed as money and credits, as provided in this Title. The amount mentioned in Subdivision 8 must be deducted from the amount mentioned in Subdivision 4, and the remainder, if any, must be listed as credits. The amount mentioned in Subdivision 5 must be listed as bonds and stocks, and the property mentioned in Subdivision 6 must be listed the same as other personal property.

Sec. 2416. The franchise, road-way, road-bed, rails and rolling stock of all railroads operated in more than one county in this State, must be assessed by the State Board of Equalization, as hereinafter provided. Other franchises, if granted by the authorities of a county or city, must be assessed in the county or city within which they were granted; if granted by any other authority they must be assessed in the county in which the corporations, firms or persons owning or holding them have their principal place of business.

Sec. 2417. All other taxable property must be assessed in the county, city or district in which it is situated. Land must be assessed in parcels or subdivisions not exceeding six hundred and forty acres each, and tracts of land containing more than six hundred and forty acres, which have been sectionized by the United States government, must be assessed by sections or fractions of sections. Money secured by mortgage on real or personal property must be assessed in the county, city or district in which the property is situated, as a credit against the mortgagee, and such tax is a lien upon the mortgaged property until the same is paid. The mortgagor, in case the mortgagee does not pay such tax, may pay the same and apply it upon the indebtedness.

Sec. 2418. The assessor must, between the first Monday of March and the second Monday of July in each year, ascertain the names of all taxable inhabitants, and all property in his county subject to taxation, except such as is required to be assessed by the State Board of Equalization, and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was at twelve o'clock M. of the first Monday of March next preceding; but no mistake in the name of the owner, or supposed owner, of real property, renders the assessment thereof invalid. Credits must be assessed as provided in Section 2407, Subdivision 6.

Sec. 2419. He must require from each person a statement under oath, setting forth specifically all the real and personal property owned by such person, or in his possession, or under his control, at twelve o'clock M. on the first Monday in March. Such statement must be in writing, showing separately:

1. All property belonging to, claimed by, or in the possession or under the control or management of such person.

2. All property belonging to, claimed by, or in the possession or under the control or management of any firm of which such person is a member.

3. All property belonging to, claimed by, or in the possession or under the control or management of any corporation of which such person is president, secretary, cashier or managing agent.

4. The county in which such property is situated, or in which it is liable to taxation, and (if liable to taxation in the county in which the statement is made) also the city, town, school district, road district, or other revenue districts in which it is situated.

5. An exact description of all lands in parcels or subdivisions, not exceeding six hundred and forty acres each, and the sections and fractional sections of all tracts of land containing more than six hundred and forty acres which have been sectionized by the United States government, improvements and personal property, including all vessels, steamers and other water craft, and all taxable State, county, city, or other municipal or public bonds, and the taxable bonds of any person, firm or corporation, and deposits of money, gold dust or other valuables, and the names of the persons with whom such deposits are made, and the places in which they may be found, all mortgages, deeds of trust, contracts and other obligations by which a debt is secured, and the property in the county affected thereby.

6. All solvent credits, secured or unsecured, due or owing to such person or any firm of which he is a member, or due or owing to any corporation of which he is president, secretary, cashier, or managing agent, deducting from the sum total of such credits only such debts, secured or unsecured, as may be owing by such person, firm or corporation. No debt is to be so deducted unless the statement shows the amount of such debt as stated under oath in the aggregate. In case of banks the statement is not required to show the debts in detail, or to whom it is owing; but the assessor has the privilege of examining the books of such banks to verify said statement. Whenever one member of a firm, or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm, or another officer, need not include such property in the statement made by him; but this statement must show the name of the person or officer who made the statement in which such property is included.

7. All depots, shops, stations, buildings and other structures erected on the space covered by the right of way, and all other property owned by any person, corporation or associa-

tion of persons owning or operating any railroad within the county.

The fact that such statement is not required, or that a person has not made such statement under oath, or otherwise, does not relieve his property from taxation.

Sec. 2420. The Board of County Commissioners must furnish the assessor with blank forms of the statements provided for in the preceding section, affixing thereto an affidavit, which must be substantially as follows: "I, ———, do swear that I am a resident of the county of (naming it), and that my post-office address is ———; that the above list contains a full and correct statement of all property subject to taxation, which I, or any firm of which I am a member, or any corporation, association or company of which I am president, cashier, secretary or managing agent, owned, claimed, possessed or controlled, at twelve o'clock M., on the first Monday in March last, and which is not already assessed this year; and that I have not in any manner whatsoever transferred or disposed of any property, or placed any property out of said county or my possession for the purpose of avoiding any assessment upon the same, or of making this statement; and that the debts therein stated as owing by me are justly due and owing to others." The affidavit to the statement on behalf of a firm or corporation must state the principal place of business of the firm or corporation, and in other respects must conform substantially to the preceding form. The time when taxes become delinquent, and the time of the meeting of the County Board of Equalization, must be stated in such form.

Sec. 2421. The assessor may fill out the statement at the time he presents it, or he may deliver it to the person and require him, within an appointed time, to return the same to him, properly filled out. The assessor must either in person or by mail deliver to the person making the statement a copy of the same showing any corrections made thereto by such assessor.

Sec. 2422. Every assessor has power:

1. To require any person found within such assessor's county to make and subscribe an affidavit, giving his name and place of residence, and post office address.

2. To subpoena and examine any person in relation to any statement furnished to him, or which discloses property which is assessable in his county; and he may exercise this power in any county where the persons whom he desires to examine may be found, but has no power to require such persons to appear before him in any other county than that in which the subpoena is served. Every person who refuses to furnish the statement hereinbefore required, or to make and subscribe such affidavit respecting his name and place of residence, or to appear and testify when requested so to do by the assessor, as above provided, for each and every refusal, and as often as

the same is repeated, forfeits to the people of the State the sum of one hundred dollars, to be recovered by action brought in the name of the assessor in any police or justice's court. In case such affidavit shows the residence of the person making the same to be in any county other than that in which it is taken, or the statement discloses property in any county other than that in which it is made, the assessor must, in the respective case, file the affidavit or statement in his office, and transmit a copy of the same, certified by him, to the assessor of the county in which such residence or property is therein shown to be. All moneys recovered by any assessor under the provisions of this section must by him be paid into the treasury of his county.

Sec. 2423. If any person, after demand made by the assessor, neglects or refuses to give, under oath, the statement herein provided for, or to comply with the other requirements of this Title, the assessor must note the refusal on the assessment book opposite his name, and must make an estimate of the value of the property of such person, and the value so fixed by the assessor must not be reduced by the Board of County Commissioners.

Sec. 2424. If the owner or claimant of any property, not listed by another person, is absent or unknown, the assessor must make an estimate of the value of such property.

Sec. 2425. If the name of the absent owner is known to the assessor, the property must be assessed in his name; if unknown, the property must be assessed to "unknown owners."

Sec. 2426. The assessor, as soon as he receives a statement of any taxable property situated in another county, must make a copy of such statement for each county in which the same is situated, and transmit the same, by mail, to the assessor of the proper county, who must assess the same as other taxable property therein.

Sec. 2427. All personal property consigned for sale to any person within this State from any place out of the State must be assessed as other property.

Sec. 2428. When a person is assessed as agent, trustee, bailee, guardian, executor or administrator, his representative designation must be added to his name and the assessment entered on a separate line from his individual assessment.

Sec. 2429. The property of every firm and corporation must be assessed in the county where the property is situate, and must be assessed in the nameof the firm or corporation.

Sec. 2430. The undistributed or unpartitioned property of deceased persons may be assessed to the heirs, guardians, executors or administrators, and a payment of taxes made by either binds all the parties in interest for their equal proportions.

Sec. 2431. The capital stock and franchises of corporations and persons, except as may be otherwise provided, must be listed and taxed in the county, town or district where the principal office or place of business of such corporation or person is located; if there be no principal office or place of business in the State, then at the place in the State where any such corporation or person transacts business.

Sec. 2432. The personal property belonging to the business of a merchant or of a manufacturer must be listed in the town or district where his business is carried on.

Sec. 2433. The personal property of express, transportation and stage companies, steamboats, vessels and other water craft must be listed and assessed in the county, town or district where such property is usually kept.

Sec. 2434. The personal property and franchises of gas and water companies must be listed and assessed in the county, town or district where the principal works are located.

Sec. 2435. Gas and water mains and pipes laid in roads, streets or alleys are personal property.

Sec. 2436. Street railroads and bridges, and ferries and their franchises, owned by persons or corporations, must be listed and assessed in the county, town or district where such property, or any portion thereof, is located, and the track of the railroad and the bridge are personal property.

Sec. 2437. Railroads operated in one county and not assessed by the State Board of Equalization; telegraph, telephone and electric light lines and similar improvements, and the franchises; canals, ditches and flumes, and the franchises of the same, must be listed and assessed in the county in which such property is located, and the assessor must require the owner of such property, or his agent, or any officer of a corporation owning the same, to make a verified statement, containing a list of the number of miles such property is operated in the county, and the value thereof.

Sec. 2438. Live stock belonging to a permanent resident of the State must not be listed or assessed while such stock is in transit, nor until it arrives in the county where the person owning the same resides, and must be listed and assessed in such county. If such live stock runs at large in a county other than the one in which such owner resides, it must be listed and assessed in such county.

Sec. 2439. Money and property in litigation in possession of a county treasurer, or of a court or a clerk thereof, or receiver, must be assessed to such treasurer, clerk or receiver, and the taxes paid thereon under the direction of the court.

Sec. 2440. Any property willfully concealed, removed, transferred or misrepresented by the owner or agent thereof, to evade taxation, upon discovery must be assessed at not exceeding ten times its value, and the assessment so made must not be reduced by the Board of County Commissioners.

Sec. 2441. Any property discovered by the assessor to have escaped assessment may be assessed at any time, if such property is in the ownership or under the control of the same person who owned or controlled it at the time it should have been assessed.

Sec. 2442. The assessor must prepare an assessment book with appropriate headings, alphabetically arranged, unless otherwise directed by the State Board of Equalization, in which must be listed all property within the county, and in which must be specified in separate columns, under the appropriate head:

1. The name of the person to whom the property is assessed.

2. Land, by township, range, section, or fractional section; and when such land is not a United States land division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres (not exceeding in each and every tract six hundred and forty acres), locality and the improvements thereon.

3. City and town lots, naming the city or town, and the number of the lot and block, according to the system of numbering in such city or town, and improvements thereon.

4. All personal property, showing the number, kind, amount and quality; but a failure to enumerate in detail such personal property does not invalidate the assessment.

5. The cash value of real estate other than city or town lots.

6. The cash value of improvements on such real estate.

7. The cash value of city and town lots.

8. The cash value of improvements on city and town lots.

9. The cash value of improvements on real estate assessed to persons other than the owners of the real estate.

10. The cash value of all personal property, exclusive of money.

11. The amount of money.

12. Taxable improvements owned by the person, firm, association or corporation located upon land exempt from taxation must, as to the manner of assessment, be assessed as other real estate upon the assessment roll. No value, however, must be assessed against the exempt land, nor under any circumstances must the land be charged with or become responsible for the assessment made against any taxable improvements located thereon.

13. The school, road and other revenue districts in which each piece of property assessed is situated.

14. The total value of all property.

15. The figure one (1), in separate columns, opposite the name of every person liable to pay a poll tax.

16. Such other things as the State Board of Equalization may require.

Sec. 2443. The form of the assessment book must be as directed by the State Board of Equalization, and in those counties for which said board does not prescribe a different form, it must be substantially as follows:

Assessment book of the property of ——— county, for the year 189—, assessed to the owner, when known, and if not known, to unknown owner.

Remarks			
Poll tax			
Total tax			
Total value of all property after equalizations by the State Board of Equalization			
Total value of all property for taxation			
Deductions on account of debts due			
Total value of all property			
Amount of money			
Value of personal property			
Value of improvements on real estate assessed to persons other than the owners of the real estate. Value of improvements thereon			
Value of city and town lots			
Value of improvements thereon			
Value of real estate other than city and town lots			
Number of mines, value of same and net proceeds			
School, road or other district in which located			
Number of acres			
Description of Property.	City or Town lots.	Block	Personal Property (here items may be enumerated in the space in column for number of acres).
		Lot	
		Fraction	
	Real estate other than city and town lots.	Range E. or W.	
		Township N. or S.	
		Section	
		Subdivision of section	
Residence			
Taxpayers' names			
When tax paid			

Sec. 2444. On or before the second Monday in July in each year, the assessor must complete his assessment book. He must take and subscribe an affidavit in the assessment book, to be substantially as follows: "I, ——— assessor of ——— county, do swear that between the first Monday in March and the second Monday in July, eighteen hundred and ninety———, I have made diligent inquiry and examination to ascertain all the property within the county, subject to assessment by me, and that the same has been assessed on the assessment book, equally and uniformly, according to the best of my judgment, information and belief, at its full cash value; and that I have faithfully complied with all the duties imposed on the assessor under the revenue laws; and that I have not imposed any unjust or double assessment through malice or ill-will or otherwise, nor allowed anyone to escape a just and equal assessment through favor or reward or otherwise." But the failure to take or subscribe such an affidavit, or any affidavit, will not in any manner affect the validity of the assessment.

Sec. 2445. The assessor must, when directed so to do by the board of commissioners, in a map book make a plat of the various blocks within any incorporated city or town, and mark thereon in each subdivision the name of the person to whom it is assessed.

Sec. 2446. As soon as completed, the assessment book, together with the map book and statements, must be delivered to the county clerk, who must immediately give notice thereof and of the time the board of commissioners will meet to equalize assessments, by publication in a newspaper, if any is printed in the county; if none, then in such manner as the board may direct; and in the meantime the assessment book must remain in his office for the inspection of all persons interested.

Sec. 2447. On the second Monday in July in each year the assessor of each county must transmit to the State Board of Equalization a statement showing:

1. The several kinds of personal property.

2. The average and total value of each kind.

3. The number of live stock, number of bushels of grain, number of pounds or tons of any article sold by the pound or ton.

4. When practicable, the separate value of each class of land, specifying the classes and the number of acres in each.

Sec. 2448. Every assessor who fails to complete his assessment book, or who fails to transmit the statement mentioned in the preceding section to the State Board of Equalization, forfeits the sum of one thousand dollars, to be recovered on his official bond, for the use of the county, or to be deducted from his salary by the Board of County Commissioners.

Sec. 2449. Lands once described on the assessment book need not be described a second time, but any person claiming the same and desiring to be assessed therefor, may have his name inserted with that of the person to whom such land is assessed.

Sec. 2450. The Board of County Commissioners must provide maps for the use of the assessor, showing the private lands owned or claimed in the county, and, if surveyed under authority of the United States, the divisions and subdivisions of the survey. Maps of cities and villages, or school districts, may in like manner be provided. The cost of making such maps is a county charge, and must be paid from the county general fund.

Sec. 2451. On or before the first Monday in March in each year, the State Land Agent must make out and transmit to the assessor of each county where lands or lots lie that may have been sold by the State, for which certificates of purchase, patents or deeds have issued during the year preceding, certified lists of such lands or lots, giving a description thereof by divisions or subdivisions, or lots and blocks, together with the names of the purchasers thereof.

Sec. 2452. The assessor and his sureties are liable on his official bond for all taxes on property within the county which, through his willful failure or neglect, is unassessed.

Sec. 2453. The county attorney must, after the assessor completes the assessment book for the year, commence an action on the assessor's bond for the amount of taxes lost from such willful failure or neglect.

Sec. 2454. On the trial of such action the value of the property unassessed being shown, judgment for the amount of taxes that should have been collected thereon must be entered.

Sec. 2455. The president, secretary, or managing agent, or such other officer as the State Board of Equalization may designate, of any corporation, and each person or association of persons owning or operating any railroad in more than one county in this State must, on or before the first Monday in March of each year, furnish the said board a statement signed and sworn to by one of such officers, or by the person or one of the persons forming such association, showing in detail for the year ending on the first Monday in March in each year:

1. The whole number of miles of railroad in the State; and where the line is partly out of the State, the whole number of miles without the State, and the whole number within the State owned or operated by such corporation, person or association.

2. The value of the roadway, road-bed and rails of the whole railroad, and the value of the same within the State.

3. The width of the right of way.

4. The number of each kind of all rolling stock used by such corporation, person or association in operating the entire railroad, including the part without the State.

5. Number, kind and value of rolling stock owned and operated in the State.

6. Number, kind and value of rolling stock used in the State but not owned by the party making the returns.

7. Number, kind and value of rolling stock owned but used out of the State, either upon divisions of road operated by the party making the returns, or by and upon other railroads.

8. The whole number of side tracks in each county, including the number of miles of track in each railroad yard in the State.

9. The number of each kind of rolling stock used in operating the entire railroad, including the part without the State, which must include a detailed statement of the number and value thereof, of all engines, passenger, mail, express, baggage, freight and other cars, or property owned or leased by such corporation, person or association.

10. The number of sleeping and dining cars not owned by such corporation, person or association, but used in operating the railroads of such corporation, person or association in the State, or on the line of the road without the State, during each month of the year for which the return is made; also the number of miles each month said cars have been run or operated within and without the State.

11. A description of the road, giving the points of entrance into and the points of exit from each county, with a statement of the number of miles in each county. When a description of the road shall have once been given no other annual description thereof is necessary, unless the road shall have been changed. Whenever the road, or any portion of the road, is advertised to be sold, or is sold, for taxes, either State or county, no other description is necessary than that given by, and the same is conclusive upon, the person, corporation or association giving the description. No assessment is invalid on account of a misdescription of the railroad or the right of way for the same. If such statement is not furnished as above provided, the assessment made by the State Board of Equalization upon the property of the corporation, person or association failing to furnish the statement is conclusive and final.

12. Also showing in detail for the year preceding the first of January—

First—The gross earnings of the entire road.

Second—The gross earnings of the road within the State, and, where the railroad is let to other operators, how much was derived by the lessor as rental.

Third—The cost of operating the entire road, exclusive of sinking fund, expenses of land department and money paid to the United States.

Fourth—Net income for such year and amount of dividend declared.

Fifth—Capital stock authorized.

Sixth—Capital stock paid in.

Seventh—Funded debt.

Eighth—Number of shares authorized.

Ninth—Number of shares of stock issued.

13. Any other facts the State Board of Equalization may require.

Sec. 2456. The State Board of Equalization must meet at the State capitol on the third Monday in July, and continue in open session from day to day, Sundays excepted, until the second Monday in August, and later if the business of the board requires it. At such meeting the board must assess the franchise, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county; but franchises derived from the United States must not be assessed. All rolling stock must be assessed in the name of the person, corporation or association owning, leasing or using the same. Assessment must be made to the corporation, person or association of persons owning or leasing or using the same, and must be made upon the entire railroad within the State, and must include the right of way, bridges and culverts of the railroad. The depots, stations, shops and buildings erected upon the space covered by the right of way, and all other property owned or leased by such person, corporation or association, except as above provided, are assessed by the assessor of the county wherein they are situate. Between the second and third Mondays of August, the board must apportion the total assessment of the franchise, roadway, roadbed, rails and rolling stock of each railroad to the counties in which such railroad is located, in proportion to the number of miles of railroad laid in such counties.

Sec. 2457. The State Board of Equalization must, within the time mentioned in the preceding section, transmit by mail to the county clerk of each county to which such apportionment has been made, a statement showing the length of the main track of such railroad within the county, with a description of the whole of the said track within the county, including the right of way, by metes and bounds or other description sufficient for identification, the assessed value per mile of the same as fixed by a pro rata distribution per mile of the assessed value of the whole franchise, roadway, roadbed, rails and rolling stock of such railroad within the State, and the amount apportioned to the county. The county clerk must enter the statement on the assessment roll or book of the county, and enter the amount of the assessment apportioned to the county in the column of the assessment book or roll as aforesaid, which shows the total value of all property for taxation of the county.

Sec. 2458. On the second Monday in September, the Board of County Commissioners must make, and cause to be entered in the proper record book, an order stating and declaring the length of main track of the railroad assessed by the State Board of Equalization within the county: the assessed value per mile of such railroad. the number of miles of track and the assessed value of such railroad lying in each city, town, school and road district or lesser taxing district in the county, through which such railroad runs, as fixed by the State Board of Equalization, which constitutes the assessment value of said property for taxable purposes in such city, town, school, road or other district; and the county clerk must on application transmit a copy of each order or equalization to the city or town council or trustees, or other legislative body of incorporated cities or towns, the trustees of each school district, and the authorized authorities of other taxation districts through which such railroad runs. All such railroad property is taxable upon said assessment, at the same rates, by the same officers, and for the same purposes, as the property of individuals within such city, town, school, road and lesser taxation districts, respectively; and such taxes must be collected in the same manner and by the same officers as other taxes are collected.

Sec. 2459. If the owner of a railroad assessed by the State Board of Equalization is dissatisfied with the assessment made by the board, such owner may, at the meeting of the board, under the provision of Section 2501, between the third Monday in July and the second Monday in August apply to the board to have the same corrected in any particular, and the board may correct and increase or lower the assessment made by it, so as to equalize the same with the assessment of other property in the State. If the board increases or lowers any assessment previously made by it, it must make a statement to the county clerk of the county affected by the change in the assessment, of the change made, and he must note such change upon the assessment book of the county as directed by the board.

Sec. 2460. The State Board of Equalization must prepare each year a book, to be called "Record of Assessment of Railroads," in which must be entered each assessment made by the board, either in writing, or by both writing and printing. Each assessment so entered must be signed by the president and clerk. The record of the apportionment of the assessments made by the board to the counties must be made in a separate book, to be called "Record of Apportionment of Railroad Assessments." In such last described book must be entered the names of the railroads assessed by the board, the names of the corporations to which, or the name of the person or association to whom, each railroad was assessed, the whole number of miles of the railroad in the State, the number of miles in each county, the total assessment of the franchise, roadway, roadbed, rails and rolling stock for purposes of State taxation, and the amount of the apportionment of such total assessment to each county for county taxation.

Sec. 2461. The assessment made by the county assessor, and that of the State Board of Equalization, as apportioned by the boards of county commissioners to each city, town, school, road or other district in their respective counties, is the only basis of taxation for the county, or any subdivision thereof, except in incorporated cities and towns, and may also be taken as such basis in incorporated cities and towns when the proper authorities may so elect. All taxes upon road, school or other local districts must be collected in the same manner as county taxes.

CHAPTER IV.

ASSESSMENT OF NET PROCEEDS OF MINES.

Section 2470. Owners of mines must make statement.
" 2471. Statement, what to contain.
" 2472. What deductions are to be made.
" 2473. Assessment book of the net proceeds of mines, what to contain.
" 2474. Duties of the assessor and other officers.
" 2475. Failure to make statement, duty of assessor.
" 2476. Right of assessor to examine books, etc.
" 2477. Improvements, etc., not exempt.
" 2478. Tax, how collected, and tax a lien.

Sec. 2470. Every person, corporation or association engaged in mining upon any quartz vein or lode, or placer mining claim, containing gold, silver, copper, coal, lead or other valuable mineral deposits, must, between the first and tenth days of June in each year, make out a statement of the gross yield of the above named metals or minerals from each mine owned or worked by such person, corporation or association during the year preceding the first day of June, and the value thereof. Such statement must be verified by the oath of such person, or the superintendent or managing agent of such corporation or association, who must deliver the same to the assessor of the county in which such mine or mines are situated.

Sec. 2471. The statement mentioned in the preceding section must contain a true and correct account of the actual expenditures of money and labor in and about extracting the ore or mineral from the mine and transporting the same to the mill or reduction works, and the reduction of the ore and the conversion of the same into money, or its equivalent, during the year.

Sec. 2472. In making the statement of the expenditures mentioned in the preceding section, there must be allowed all moneys expended for necessary labor, machinery and supplies needed and used in the mining operations, for improvements necessary in and about the working of the mine, for reducing the ores, for the construction of mills and reduction works used and operated in connection with the mine, for transporting the ore and for extracting the metals and minerals therefrom; but money invested in the mines or improvements during any year except the year immediately preceding such statement, must not be included therein. Such expenditures do not include the salaries, or any portion thereof, of any persons or officers not actually engaged in the working of the mine, or personally superintending the management thereof.

Sec. 2473. The assessor must prepare, at the same time he prepares the general assessment book, another assessment book, called "The Assessment Book of the Net Proceeds of

Mines," alphabetically arranged, unless otherwise directed by the State Board of Equalization, in which must be listed the net proceeds of all the mines in his county, and in which must be specified, in separate columns and under the appropriate head:

1. The name of the owner of the mine.
2. Description and location of the mine.
3. Number of tons extracted during the year.
4. Gross yield or value in dollars and cents.
5. Actual cost of extracting same from mine.
6. Actual cost of transportation to place of reduction or sale.
7. Actual cost of reduction or sale.
8. Cost of construction and repair of mines and reduction works during the year.
9. Net proceeds, or value, in dollars.
10. Total amount of tax.

Sec. 2474. The duties of the assessor, county clerk, State Board of Equalization, and Board of County Commissioners, as to the assessment of the net proceeds of mines, the statements and returns to be made, the equalization thereof, and other official acts, are the same as those mentioned in Chapter III., of this Title, in regard to the assessment of other property.

Sec. 2475. If any person, corporation or association engaged in mining, as mentioned in this Chapter, refuses or neglects to make and deliver to the assessor of the county where the mines are located, the statement mentioned in this Chapter, such assessor must list the property and assess, according to his knowledge and information, the amount of such tax in the manner provided by law for the assessment of other property where no statement is furnished.

Sec. 2476. The assessor, at any time, has the right to examine the books and accounts of any person, corporation or association engaged in mining, as mentioned in this Chapter, in order to verify the statement made by such person, corporation or association, and if from such examination he finds such statement false, he must assess the net proceeds in the same manner as if no statement had been made and delivered.

Sec. 2477. Nothing in this Chapter contained must be construed so as to exempt from taxation the improvements, buildings, erections, structures or machinery placed upon any mining claim, or used in connection therewith, or supplies used either in the mills, reduction works or mines.

Sec. 2478. The tax mentioned in the preceding sections must be collected and the payment thereof enforced as the collection and enforcement of other taxes are provided for, and every such tax is a lien upon the mines or mining claims from which the ores or minerals are extracted, which lien attaches on the first Monday of March in each year, and the sale thereof for delinquent taxes may be made as provided for the sale of real estate for delinquent taxes.

CHAPTER V.

EQUALIZATION OF TAXES.

Article I. County Boards of Equalization.
" II. State Board of Equalization.

ARTICLE I.

COUNTY BOARDS OF EQUALIZATION.

Section 2485. County commissioners, when to equalize assessment.
" 2486. Board empowered to equalize assessments.
" 2487. The person aggrieved must apply.
" 2488. Examination of persons assessed.
" 2489. Witnesses may be subpoenaed.
" 2490. Assessor must be present.
" 2491. Abstract of incumbrances must be furnished by county clerk.
" 2492. How commissioners to act upon such instrument.
" 2493. County commissioners to use records in equalizing.
" 2494. Board may direct assessor to assess in certain instances.
" 2495. County clerk must keep record of proceedings and make oath.

Sec. 2485. The Board of County Commissioners is the County Board of Equalization and must meet on the third Monday of July in each year, to examine the assessment book and equalize the assessment of property in the county. It must continue in session for that purpose from time to time until the business of equalization is disposed of, but not later than the second Monday in August.

Sec. 2486. The board has power, after giving notice in such manner as it may, by rule, prescribe, to increase or lower any assessment contained in the assessment book, so as to equalize the assessment of the property contained therein, and make the assessment conform to the true value of such property in money.

Sec. 2487. No reduction must be made in the valuation of property unless the party affected thereby, or his agent, makes and files with the board a written application therefor, verified by his oath, showing the facts upon which it is claimed such reduction should be made.

Sec. 2488. Before the board grants the application, or makes any reduction applied for, it must examine, on oath, the person or the agent making the application, touching the value of the property of such person. No reduction must be made unless such person or the agent making the application attends and answers all questions pertinent to the inquiry.

Sec. 2489. Upon the hearing of the application the board may subpoena such witnesses, hear and take such evidence in relation to the subject pending, as, in its discretion, it may deem proper.

Sec. 2490. During the session of the board the assessor and any deputy whose testimony is needed must be present and may make any statement, or introduce and examine witnesses on questions before the board.

Sec. 2491. To assist the assessor in the performance of his duties, the county clerk must annually transmit to the assessor, on or before the first Monday in March, a complete abstract of all mortgages, deeds of trust, contracts and other obligations by which any debt is secured, remaining unsatisfied on the records of his office, not barred by the statute of limitation, at twelve o'clock meridian, on the first Monday in March of said year. Such abstract must be written under appropriate headings, to embrace all information requisite for the assessor, in a book or books to be furnished by the Board of County Commissioners upon the requisition of the assessor. If any such list be found to contain any instrument relating to lands situated in more than one county, it is the duty of the assessor to transmit to the State Board of Equalization all information relating thereto.

Sec. 2492. It is the duty of the State Board of Equalization to attach an apportionment of valuation of such instrument to be assessed in each county, and the board must transmit to the assessor of each county mentioned as affected in said instrument a statement of valuation of assessment to be levied against said instrument in each county. The valuation so set by said State board is final, and the assessor must accept said valuation and charge said assessment upon said instrument accordingly. If the said list contain any instrument mortgaging or pledging two or more subdivisions of land, or land assessed in two or more subdivisions, in the same county, district or city, the assessor must apportion the amount of assessment to be deducted from each subdivision on account of assessment against said instrument. When partial payments have been made on a debt, secured by mortgage or deed of trust, the owner is authorized to make the proper deduction, listing only the balance due on the first Monday in March.

Sec. 2493. The Board of County Commissioners must use the abstract and all other information it may gain from the records of the county clerk or elsewhere, in equalizing the assessment of the property of the county, and may require the assessor to enter upon the assessment book any property which has not been assessed; and any assessment made as prescribed in this section has the same force and effect as if made by the assessor before the delivery of the assessment book to the county clerk.

Sec. 2494. During the session of the Board of County Commissioners it may direct the assessor to assess any taxable property that has escaped assessment, or to add to the amount, number or quantity of property when a false or incomplete list has been rendered, and to make and enter new assessments (at the same time canceling previous entries) when any assessment made by him is deemed by the board so incomplete as to render doubtful the collection of the tax; but the clerk must notify all persons interested, by letter deposited in the postoffice, postpaid, and addressed to the person interested, at least ten days before action is taken, of the day fixed when the matter will be investigated.

Sec. 2495. The county clerk must record, in a book to be kept for that purpose, all changes, corrections and orders made by the board, and during its session, or as soon as possible after its adjournment, must enter upon the assessment book all changes and corrections made by the board, and on or before the first Monday of August must affix his affidavit thereto, subscribed by him as follows:

I,———, do swear that, as county clerk of ——— county, I have kept correct minutes of all the acts of the Board of County Commissioners touching alterations in the assessment book; that all alterations agreed to or directed to be made have been made and entered in the book, and that no changes or alterations have been made therein except those authorized.

ARTICLE II.

STATE BOARD OF EQUALIZATION.

Section 2500. Who constitute the board.
" *2501. Powers and duties.*
" *2502. Equalization of assessment.*
" *2503. Statement, when county clerk fails.*
" *2504. Statement of changes sent to county clerk.*
" *2505. Must notify Board of County Commissioners.*
" *2506. Penalty for refusing to obey rules of board.*
" *2507. Assessor to be prosecuted, when.*
" *2508. Who may administer oaths.*
" *2509. Expenses to be allowed.*

Sec. 2500. The Governor, Secretary of State, State Treasurer, State Auditor and Attorney General constitute a State Board of Equalization, of which the Governor is president and the Secretary of State the secretary.

Sec. 2501. The powers and duties of the State Board of Equalization are as follows:

1. To prescribe rules for its own government and for the transaction of its business.

2. To prescribe rules and regulations not in conflict with the Constitution and the laws of the State, to govern county commissioners when equalizing, and assessors when assessing.

3. To make out and prepare, and enforce the use of forms in relation to the assessment of property.

4. To hold meetings at the State capitol, as prescribed by its rules, and such special meetings as the president may direct.

5. To annually assess the franchise, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county in this State, at their actual value, at the first Monday in March, at twelve o'clock M., and to apportion such assessment to the counties in which such railroads are located, in proportion to the number of miles of railroad laid in such counties, in the manner provided for in Section 2455, of this Code.

6. To equalize the assessment of each mortgage, deed of trust, contract or other obligation by which a debt is secured, and which affects property situated in two or more counties, and to apportion the assessment thereof to each of said counties.

7. To transmit to the county clerk of each county its apportionment of the assessments made by such board upon the franchises, roadways, roadbeds, rails and rolling stock of railroads; and also its apportionment of the assessments made by such board upon mortgages, deeds of trust, contracts and other obligations by which debts are secured, in the manner provided for in Section 2455, of this Code.

8. To meet at the State capitol on the fourth Monday in July, and remain in session from day to day (Sundays excepted), until the third Monday in August, and later if the business of the board requires.

9. At such meetings to equalize the valuation of the taxable property of the several counties in this State for the purpose of taxation; and to that end, under such rules of notice to the county clerk of the county affected thereby as it may prescribe, to increase or lower any assessment contained in the assessment book, so as to equalize the assessment of the property contained therein, and make the assessment conform to the true value in money of the property assessed.

10. To visit as a board, or by the individual members thereof, whenever deemed necessary, the several counties of the State, for the purpose of inspecting the property and learning the value thereof.

11. To call before it, or any member thereof, on such visit, any officers of the county, and to require them to produce any public records in their custody.

12. To issue subpoenas for the attendance of witnesses or production of books before the board, or any member thereof;

which subpoenas must be signed by a member of the board, and may be served by any person.

13. To report biennially to the Legislative Assembly, a statement showing:

First—The acreage of each county in the State that is assessed.

Second—The amount assessed per acre.

Third—The aggregate value of all town and city lots.

Fourth—The aggregate value of all real estate and mining claims, stating each separately, in the State.

Fifth—The kinds of personal property in each county, and the value of each kind.

Sixth—The aggregate value of all personal property in the State.

Seventh—Any information relative to the assessment of property and the collection of revenue.

Eighth—Such further suggestion as it deems proper.

14. To keep a record of all its proceedings.

15. To appoint a clerk who must assist the secretary of the board and perform such other duties as the board may require, and who holds his office during the pleasure of the board.

Sec. 2502. When, after a general investigation by the board, the property is found to be assessed above or below its full cash value, the board may, without notice, so determine, and must add to or deduct from the valuation:

1. The real estate.
2. Improvements upon such real estate.
3. The personal property, except money, such per centum respectively as is sufficient to raise or reduce it to its full cash value.

Sec. 2503. If the county clerk fails to forward to the State Board of Equalization the statement provided for in Section 2531, the board must obtain the statement, or so much thereof as is necessary, from other and reliable sources.

Sec. 2504. When the equalization among the several counties is completed, the secretary of the board must transmit to each county clerk a statement of the changes made by the board in the assessment book of the county, or any assessment contained therein, and of the per centum to be added to or deducted from the valuation of such statement, which is *prima facie* evidence of the regularity of all proceedings of the board, resulting in the action which is the subject matter of the statement.

Sec. 2505. Between the first and third Mondays in August, of each year, the board must determine the rate of State tax to be levied and collected upon the assessed valuation of the property of the State, which, after allowing twelve per cent. for delinquencies in and costs of collection of taxes, must be sufficient to raise the specific amount of revenue directed to be raised by the Legislative Assembly for State purposes.

The board must immediately thereafter transmit to the county clerk of each county, a statement of such rate, and upon its receipt the county clerk must, in writing, notify the State Board of Equalization thereof.

Sec. 2506. Every person served with a subpoena who fails or neglects, without just excuse, to obey it, and every officer who refuses to obey the rules and regulations prescribed by the board, or to perform the duties prescribed therein, forfeits to the State five hundred dollars, to be recovered by action in the name of the State, which action may be commenced and tried in any county of the State.

Sec. 2507. Whenever the State Board of Equalization is satisfied that the assessor or deputy assessor of any county has knowingly, fraudulently, or corruptly assessed any property below its actual cash value, it must immediately inform the county attorney of such county in writing of that fact, with a request that such assessor or deputy assessor be prosecuted, and the county attorney must at once comply with such request.

Sec. 2508. The clerk or any member of the board may administer and certify oaths.

Sec. 2509. Each member of the board is entitled to repayment of his actual expenses incurred by him while traveling in the discharge of his duties, and all money paid out for necessary clerical work, stationery and postage stamps, to be audited and allowed by the State Board of Examiners.

CHAPTER VI.

LEVY OF TAXES.

Section 2515. The levy. Fiscal year.
" *2516. Rate of taxation fixed by State board.*
" *2517. Rate of county fixed by Board of County Commissioners.*
" *2518. When county commissioners fail to levy.*
" *2519. Tax operates as a judgment or lien.*
" *2520. Tax on personal a lien on real.*
" *2521. Tax upon real and tax upon personal a lien on both.*
" *2522. Tax for school purposes.*

Sec. 2515. There must be levied at each session of the Legislative Assembly upon all the property in the State liable to taxation a sufficient sum to realize the amount necessary to meet the appropriations made for the two succeeding fiscal years, and for the payment of deficiences, if any have occurred in the previous fiscal year or years. Such levy must be made for each fiscal year separately and must not exceed two and one-half mills on each dollar of valuation. The fiscal year commences on the first day of July.

Sec. 2516. The State Board of Equalization must for State purposes for each fiscal year fix an ad valorem rate of taxation upon each one hundred dollars of taxable property of the State, after allowing twelve per cent. for delinquencies in the taxes and for costs of collection thereof, as will raise a sufficient amount to meet the levy of the Legislative Assembly for each fiscal year.

Sec. 2517. The Board of County Commissioners of each county must, on the second Monday in August, fix the rate of county taxes and designate the number of mills on each dollar of valuation of property for each fund, and must levy taxes upon the taxable property of the county.

Sec. 2518. The action of the State Board of Equalization in fixing the rate of taxation for State purposes is, in the absence of action by the Board of County Commissioners, a valid levy of the rate so fixed, and imposes upon the county commissioners and all other officers charged with the performance of any duties under the revenue law, the same obligations as if the Board of County Commissioners had made the levy at the proper time.

Sec. 2519. Every tax has the effect of a judgment against the person, and every lien created by this Title has the force and effect of an execution duly levied against all personal property of the delinquent. The judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment thereof.

Sec. 2520. Every tax due upon personal property is a lien upon the real property of the owner thereof, from and after twelve o'clock M., of the first Monday in March in each year.

Sec. 2521. Every tax due upon real property is a lien against the property assessed; and every tax due upon improvements upon real estate assessed to others than the owner of the real estate, is a lien upon the land and improvements; which several liens attach as of the first Monday of March in each year.

Sec. 2522. There must be levied by the Legislative Assembly, at the time other State taxes are levied, a tax of such number of cents of each one hundred dollars value of taxable property in the State, as will produce a net sum equal to the amount reported to them by the State Auditor, or as may be otherwise ascertained as being necessary to be raised by an ad valorem tax for school purposes; and the assessment and collection of said tax must be performed in the same manner, and at the same time, as other State taxes are assessed and collected.

CHAPTER VII.

DUTY OF COUNTY CLERK IN RELATION TO REVENUE.

Section 2530. County clerk to enter total valuation.
" 2531. County clerk to prepare duplicate statement.

Section 2532. Statement to be transmitted to State Auditor and State Board of Equalization.
" 2533. To follow directions of State Board of Equalization.
" 2534. To compute and enter taxes and foot up total.
" 2535. Delivery of duplicate assessment book to treasurer.
" 2536. County clerk to keep original.
" 2537. County treasurer charged with taxes levied.
" 2538. County clerk to verify statements made by him.
" 2539. To transfer from one treasurer to another.
" 2540. Penalty for neglect of duty.
" 2541. County commissioners may dispense with duplicate book.

Sec. 2530. The county clerk, as soon as he receives the book, must proceed to add up the valuations, and enter the total valuation of each kind of property, and the total valuation of all property, on the assessment book. The column of acres must show the total acreage of the county.

Sec. 2531. The county clerk must, on or before the second Monday in August of each year, prepare from the "Assessment Book" of such year, as corrected by the Board of County Commissioners, duplicate statements, showing in separate columns:

1. The total value of all property.
2. The value of real estate, including mining claims, stated separately.
3. The value of the improvements thereon.
4. The value of personal property, exclusive of money.
5. The amount of money.
6. The number of acres of land and the number of mining claims stated separately.

Sec. 2532. The county clerk must, as soon as such statements are prepared, transmit by mail, one to the State Auditor and one to the State Board of Equalization.

Sec. 2533. As soon as the county clerk receives from the State Board of Equalization a statement of the changes made by the board in the assessment book of the county, or in any assessment contained therein, he must make the corresponding changes in the assessment book, by entering the same in a column provided with a proper heading in the assessment book, counting any fractional sum, when more than fifty cents, as one dollar, and omitting it when less than fifty cents, so that the value of any separate assessment shall contain no fractions of a dollar; but he must, in all cases, disregard any action of the Board of County Commissioners which is prohibited by Section 2423, of this Code.

Sec. 2534. The county clerk must then compute and enter in a separate money column in the assessment book, the respective sums in dollars and cents, rejecting the fractions of a cent, to be paid as a tax on the property therein enumerated, and foot up the column showing the total amount of such taxes, and the columns of total value of property in the county, as corrected under the direction of the State Board of Equalization.

Sec. 2535. On or before the first Monday of October, he must deliver a copy of the corrected assessment book, to be styled "Duplicate Assessment Book," to the county treasurer with an affidavit attached thereto, and by him subscribed as follows: "I,———, county clerk of the county of ———, do swear that I received the assessment book of the taxable property of the county from the assessor, with his affidavit thereto affixed, and that I have corrected it and made it conform to the requirements of the county and State Board of Equalization; that I have reckoned the respective sums due as taxes, and have added up the columns of valuations, taxes and acreage, as required by law, and that the copy to which this affidavit is affixed is a full, true and correct copy thereof, made in the manner prescribed by law."

Sec. 2536. The original assessment book must remain in the office of the county clerk.

Sec. 2537. On delivering the "Duplicate Assessment Book" to the county treasurer, the county clerk must charge the treasurer with the full amount of taxes levied.

Sec. 2538. The county clerk must verify, by his affidavit attached thereto, all statements made by him under the provisions of this Title.

Sec. 2539. The county clerk, if the "Duplicate Assessment Book" or the delinquent tax list is transferred from one collector to another, must credit the one and charge the other with the amount then outstanding on the tax book.

Sec. 2540. If the county clerk fails or neglects to perform the duties prescribed by Sections 2501 and 2502, of this Code, he forfeits to the State five hundred dollars, to be recovered by action in the name of the State.

Sec. 2541. The Board of County Commissioners of any county may, in their discretion, dispense with the making or use of any duplicate assessment book mentioned in any part of this Code; and in all cases where said duplicate assessment book is referred to, it is lawful to use and consider the original assessment book in all the requirements of every part of this Code referring to the same, and all affidavits or other statements in reference to said duplicate assessment book must be substantially worded to conform to the use of the original assessment book.

CHAPTER VIII.

COLLECTION OF PROPERTY TAXES.

Section 2555. County treasurer to publish notice, specifying what.

Section 2556. Manner of publication of notice.
“ *2557. Treasurer to note date of payment.*
“ *2558. Receipt to be given.*
“ *2559. Payment of taxes of decedents, how enforced.*
“ *2560. Settlement of treasurer with county clerk; when made, form of.*
“ *2561. When taxes are delinquent, addition thereto of five per cent.*
“ *2562. Comparison of original and duplicate assessment books by treasurer and county clerk.*
“ *2563. When delinquent list must be completed.*
“ *2564. All matters on assessment book, etc., to be set down in numerical or alphabetical order.*
“ *2565. Credit to be given to treasurer on final settlement, etc.*
“ *2566. Treasurer charged with delinquent taxes and five per cent. additional.*
“ *2567. Statement to be transmitted to State Auditor by county clerk.*
“ *2568. Publication of delinquent list; when made and what to contain.*
“ *2569. Notice of sale appended to delinquent list.*
“ *2570. Manner of making publication.*
“ *2571. Time and place of sale to be designated.*
“ *2572. Sale, when and where to take place.*
“ *2573. Copy of publication and affidavit to be filed with the county clerk.*
“ *2574. Additional sum collected to defray costs, etc.; disposition of same.*
“ *2575. Manner of conducting sale.*
“ *2576. Postponement.*
“ *2577. Designations of portions to be sold. Purchase of least quantity or interest. Sale to State.*
“ *2578. Re-sale when purchaser does not make sale of next day.*
“ *2579. Bid of person once refusing to make payment, not to be received.*
“ *1580. Treasurer to give purchaser a duplicate certificate of sale.*
“ *2581. Signature of certificates of sale, and disposition of copies.*
“ *2582. Treasurer to enter in a book description of land sold.*
“ *2583. Lien of State when vests in purchaser; how alone divested.*
“ *2584. Time of redemption of property.*
“ *2585. Redemption, in what money made; crediting amount and paying it over.*
“ *2586. Treasurer's report of persons entitled to redemption and amount due to each.*

Section 2587. Clerk to file and enter certificate of sale.
“ *2588. When property is redeemed clerk to note it in book.*
“ *2589. Treasurer's deed when property is not redeemed in time; charges for making and acknowledgement.*
“ *2590. Purchaser what to do.*
“ *2591. No deed to issue under certain circumstances.*
“ *2592. Recitals in deed, primary evidence of what.*
“ *2593. Deed conclusive evidence of what.*
“ *2594. Title conveyed by deed, deeds to State record and effect of.*
“ *2595. Assessment books, delinquent books, etc., prima facie evidence of what.*
“ *2596. Seizure and sale of personal property for taxes.*
“ *2597. Manner of conducting sale, etc.*
“ *2598. Sale must be made after notice.*
“ *2599. Treasurer's charges and mileage for sale or seizure.*
“ *2600. Title to such property vests in purchaser on payment, etc.*
“ *2601. Disposition of excess of proceeds over taxes, percentage and costs.*
“ *2602. Unsold portion to remain at risk of owner.*
“ *2603. Comparison of delinquent list with unpaid assessment.*
“ *2604. Oath administered to treasurer.*
“ *2605. Final settlement of treasurer with clerk.*
“ *2606. Treasurer's affidavit indorsed on list.*
“ *2607. Rate of interest on delinquent taxes.*
“ *2608. Taxes, etc., illegally collected to be refunded.*
“ *2609. When land assessed more than once.*
“ *2610. Land irregularly assessed, etc., not to be sold.*
“ *2611. What mistakes do not affect sale of property for taxes.*
“ *2612. Collection of taxes from persons assessed, but removed to another county.*
“ *2613. Evidence on trial of suit for such taxes.*
“ *2614. Allowance and payment of expense of such proceeding.*
“ *2615. Protest against sale requisite when assessment void in part, to invalidate sale or grant thereunder.*
“ *2616. Duty of treasurer on delivery of such protest.*
“ *2617. Assessment of property purchased by State, and adjournment of sale thereof.*
“ *2618. No sale unless directed by State Board of Equalization.*

Section 2619. Conditions of redemption of property sold to State.
" *2620. Distribution of such redemption moneys. Accounts, etc.*
" *2621. County commissioners to sell unredeemed property.*

Sec. 2555. Within ten days after the receipt of the "Duplicate Assessment Book," the county treasurer must publish a notice specifying:

1. That taxes will be delinquent on the first Monday in December next thereafter, at six o'clock P. M., and that unless paid prior thereto ten per cent. will be added to the amount thereof.
2. The time and place at which payment of taxes may be made.

Sec. 2556. The notice in every case must be published for two weeks in some weekly or daily newspaper published in the county, if there is one; or if there is not, then by posting it in three public places. The failure to publish or post notices does not relieve the tax payer from any of his liabilities.

Sec. 2557. The county treasurer must mark the date of the payment of any tax in the assessment book, opposite the name of the person paying.

Sec. 2558. He must give a receipt to the person paying any tax specifying the amount of the assessment and the tax paid, with a description of the property assessed.

Sec. 2559. The District Court must require every administrator or executor to pay out of the funds of the estate all taxes due from such estate; and no order or decree for the distribution of any property of any decedent among the heirs or devisees must be made until all taxes against the estate are paid.

Sec. 2560. On the first Monday in March, June and September and the second Monday in December, the county treasurer must settle with the Board of County Commissioners for all moneys collected for the State or county, and on the said day must deliver to and file in the office of the county clerk a statement under oath, showing:

1. An account of all his transactions and receipts since his last settlement.
2. That all money collected by him is in the county treasury.

Sec. 2561. On the first Monday in December of each year, at six o'clock P. M., all unpaid taxes are delinquent, and thereafter the county treasurer must collect for the use of the county an addition of ten per cent.

Sec. 2562. On the third Monday of December of each year the county treasurer must attend at the office of the county clerk with the duplicate assessment book, and carefully compare the duplicate with the original assessment book, and every item marked "paid" in the former must be marked "paid" in the latter.

Sec. 2563. The county treasurer must, at the time specified in the preceding section, deliver to the county clerk a complete "delinquent list" of all persons and property then owing taxes.

Sec. 2564. In the list so delivered must be set down in numerical or alphabetical order, all matters and things contained in the assessment book, and relating to delinquent persons or property.

Sec. 2565. The county clerk must carefully compare the list with the assessment book, and if satisfied that it contains a full and true statement of all taxes due and unpaid, he must foot up the total amount of taxes so remaining unpaid, credit the county treasurer who acted under it therewith, and make a final settlement with him of all taxes charged against him on the assessment book, and must require from him an immediate account for any existing deficiency.

Sec. 2566. After settlement with the county treasurer, as prescribed in the preceding section, the county clerk must charge the treasurer then acting, with the amount of taxes due on the delinquent tax list, with the ten per cent. added thereto, and within three days thereafter deliver the list, duly certified to such county treasurer.

Sec. 2567. Within ten days after the final settlement, the county clerk must transmit, by mail, a statement to the State Auditor, in such form as he requires, of each kind of property assessed and delinquent, and the total amount of delinquent taxes.

Sec. 2568. On or before the last Monday of each year, the county treasurer must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent, and the amount of taxes and costs due, opposite each name and description, with the taxes due on personal property added to the taxes on real estate, where the real estate is liable theretor, or the several taxes are due from the same person. The expenses of publication to be a charge against the county.

Sec. 2569. The county treasurer must publish with the delinquent tax list a notice that unless the taxes delinquent, together with the costs and per centage, are paid, the real property upon which such taxes are a lien will be sold at public auction.

Sec. 2570. The publication must be made once a week for three successive weeks in such newspaper published in the county as the Board of County Commissioners directs. If there is no newspaper published in the county, then by posting a copy of the list in three public places.

Sec. 2571. The publication must designate the time and place of sale.

Sec. 2572. The time of sale must not be less than twenty-one nor more than twenty-eight days from the first publication, and the place must be in front of the county court house.

Sec. 2573. The county treasurer, as soon as he has made the publication required by the preceding sections, must file with the county clerk, a copy of the publication, with an affidavit attached thereto that it is a true copy of the same; that the publication was made in a newspaper, stating its name and place of publication, and the date of each appearance; and in case there was no newspaper published in his county, that notices were put up in three public places, designating the places therein, which affidavit is *prima facie* evidence of all the facts stated therein.

Sec. 2574. The county treasurer must collect, in addition to the taxes due on the delinquent list and ten per centum added thereto, fifty cents on each lot, piece, or tract of land separately assessed, and on each assessment of personal property, which must be paid to the county to pay the cost of such publication.

Sec. 2575. On the day fixed for sale, or on some subsequent day to which he may have postponed it, of which he must give notice, the county treasurer, between the hours of ten o'clock A. M., and three P. M., must commence the sale of the property advertised, commencing at the head of the list, and continuing in alphabetical or numerical order of lots and blocks until completed.

Sec. 2576. He may postpone the day of commencing the sale from day to day; but the sale must be completed within three weeks from the day first fixed.

Sec. 2577. The owner or person in possession of any real estate offered for sale for taxes due thereon, may designate, in writing to the county treasurer, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or possessor does not, then the treasurer may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the portion of the interest, and pay the taxes and costs due, including fifty cents to the treasurer for the duplicate certificate of sale, is the purchaser. But in case there is no purchaser in good faith for the same, as provided in this Chapter, on the first day that the property is offered for sale, then when the property is offered thereafter for sale, and there is no purchaser in good faith for the same, the whole amount of the property assessed must be struck off to the county as the purchaser, and the duplicate certificate delivered to the county treasurer, and filed by him in his office. No charge must be made for the duplicate certificate when the county is a purchaser; and in such case the county treasurer must make an entry, "Sold to the County," on the duplicate assessment book opposite the tax, and he must be credited with the amount thereof in the settlement.

Sec. 2578. If the purchaser does not pay the tax and costs before ten o'clock P. M. of the following day, the property, on the next sale day, before the regular sale, must be re-sold for taxes and costs.

Sec. 2579. The bid of any person refusing to make the payment for the property purchased by him must not be received on the sale of any property advertised in the delinquent tax list of that year.

Sec. 2580. After receiving the amount of taxes and costs, the treasurer must make out in duplicate, a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for taxes, giving the amount and the year of the assessment, and specifying the time when the purchaser will be entitled to a deed.

Sec. 2581. The certificate must be signed by the county treasurer and one copy delivered to the purchaser, and the other filed in the office of the county clerk.

Sec. 2582. The county treasurer, before delivering any certificate, must in a book enter a description of the land sold corresponding with the description in the certificate, the date of sale, purchaser's name, and the amount paid, regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection without fee during office hours when not in actual use.

Sec. 2583. On filing the certificate with the county clerk the lien of the State vests in the purchaser, and is only divested by the payment to him, or to the county treasurer for his use, of the purchase money and twenty per cent. thereon.

Sec. 2584. A redemption of the property sold may be made by the owner or any party in interest within twelve months from the date of the purchase, or at any time prior to the giving of the notice and the application for a deed, as provided for in Section 2589, of this Code.

Sec. 2585. Redemption must be made in lawful money and when paid to the county treasurer, he must credit the amount paid to the person named in the county treasurer's certificate, and pay it on demand to the person or his assignees.

Sec. 2586. In each report the treasurer makes to the Board of County Commissioners he must name the persons entitled to redemption money, and the amount due to each.

Sec. 2587. On receiving the certificate of sale the county clerk must file it, and make an entry in a book similar to that required of the treasurer.

Sec. 2588. On the presentation of the receipt of the person named in the certificate, or of the county treasurer for his use, of the total amount of redemption money, the county clerk must mark the word "Redeemed," the date, and by whom redeemed, on the certificate and in the margin of the book where the entry of the certificate is made.

Sec. 2589. If the property is not redeemed in the time allowed by law for its redemption, the county treasurer, or his successor in office, must make to the purchaser, or his assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person has redeemed the property during the time allowed for its redemption. The county treasurer is entitled to receive from the purchaser, for the use of the county, three dollars for making such deed. No charge must be made by the county treasurer for the making of any such deed where the county is a purchaser; and the acknowledgement of all such deeds, as provided in Section 2577, must be taken by the county clerk free of charge.

Sec. 2590. The purchaser of property sold for delinquent taxes, or his assignee, must, thirty days previous to the expiration of the time for the redemption, or thirty days before he applies for a deed, serve upon the owner of the property purchased, or upon the person occupying the property, if said property is occupied, a written notice, stating that said property, or a portion thereof, has been sold for delinquent taxes; giving the date of sale, the amount of property sold, the amount for which it was sold, the amount then due, and the time when the right of redemption will expire, or when the purchaser will apply for a deed, and the owner of the property has the right of redemption indefinitely until such notice has been given and said deed applied for, upon the payment of the fees, percentages, penalties and costs required by law. In case of an unoccupied property, a similar notice must be posted in a conspicuous place upon the property, at least thirty days before the expiration of the time for redemption, or thirty days before the purchaser applies for a deed.

Sec. 2591. No deed of the property sold at a delinquent tax sale must be issued by the county treasurer, or any other officer, to the purchaser of the property, until after such purchaser shall have filed with the treasurer, or other officer, an affidavit showing that the notice hereinbefore required to be given has been given as herein required, which said affidavit must be filed by the treasurer, as other files, papers and records kept by him in his office. Such purchaser is entitled to receive the sum of three dollars for the service of said notice and the making of said affidavit; which sum of three dollars must be paid by the redemptioner at the same time and in the same manner as other costs, percentages, penalties, and fees are paid.

Sec. 2592. The matters recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved, is *prima facie* evidence that:

1. The property was assessed as required by law.

2. The property was equalized as required by law.
3. The taxes were levied in accordance with law.
4. The taxes were not paid.
5. At a proper time and place the property was sold as prescribed by law, and by the proper officer.
6. The property was not redeemed.
7. The person who executed the deed was the proper officer.
8. Where the real estate was sold to pay taxes on personal property, that the real estate belonged to the person liable to pay the tax.

Sec. 2593. Such deed, duly acknowledged or proved, is (except as against actual fraud) conclusive evidence of all other proceedings, from the assessment by the assessor, inclusive, up to the execution of the deed.

Sec. 2594. The deed conveys to the grantee the absolute title to the lands described therein as of the date of the expiration of the period for redemption, free of all incumbrances, except the lien for taxes which may have attached subsequent to the sale, and except when the land is owned by the United States, or this State, in which case it is *prima facie* evidence of the right of possession, accrued as of the date of the expiration of such period for redemption.

Sec. 2595. The assessment book, duplicate assessment book, or delinquent list, or a copy thereof certified by the county clerk, showing unpaid taxes against any person or property is *prima facie* evidence of the assessment, the property assessed, the delinquency, the amount of taxes due and unpaid, and that all the forms of the law in relation to the assessment and levy of such taxes have been complied with.

Sec. 2596. The treasurer may, after the first Monday in February in each year, in each of the counties of this State, collect the taxes due on personal property, except when real estate is liable therefor, by seizure and sale of any personal property owned by the delinquent.

Sec. 2597. The sale must be at public auction, and of a sufficient amount of the property to pay the taxes, percentage, and costs.

Sec. 2598. The sale must be made after one week's notice of the time and place thereof, given by publication in a newspaper in the county, or by posting in three public places.

Sec. 2599. For seizing or selling personal property the treasurer may charge in each case the sum of three dollars for the use of the county and the same mileage as is allowed by law to the sheriff of the county.

Sec. 2600. On the payment of the price bid for any property sold the delivery thereof, with a bill of sale, vests the title thereto in the purchaser.

Sec. 2601. All excess over the taxes, per cent., and costs of proceeds of any such sale must be returned to the owner of the property sold, and until claimed must be deposited in the county treasury, subject to the order of the owner, heirs, or assigns.

Sec. 2602. The unsold portion of any property may be left at the place of sale at the risk of the owner.

Sec. 2603. The county treasurer must annually, on the third Monday of February, attend at the office of the county clerk with the delinquent list, and the county clerk must then carefully compare the lists with the assessments of persons and property not marked "Paid" on the assessment book, and when taxes have been paid he must note the fact in the appropriate column in the assessment book.

Sec. 2604. The county clerk must then administer to the county treasurer an oath, to be written and subscribed in the delinquent list, that every person and all property assessed in the delinquent list on which taxes have been paid has been credited in the list with such payment.

Sec. 2605. The county clerk must then foot up the amount of taxes remaining unpaid, and credit the treasurer with the amount, and have a final settlement with him; and the delinquent list must remain in the county clerk's office.

Sec. 2606. At the time mentioned in Section 2603, the treasurer must make an affidavit, indorsed on the list, that the taxes not marked "paid" have not been paid, and that he has not been able to discover any property belonging to, or in possession of, the persons liable to pay the sum whereof to collect them.

Sec. 2607. Interest at the rate of one per cent. per month must be collected on such delinquent taxes from the time they were first delinquent until paid.

Sec. 2608. Any taxes, per centum, and costs, paid more than once or erroneously or illegally collected, may by order of Board of County Commissioners, be refunded by the county treasurer, and the State's portion of such tax, percentage and costs must be refunded to the county, and the State Auditor must draw his warrant therefor in favor of the county.

Sec. 2609. When the treasurer discovers that any property has been assessed more than once for the same year, he must collect only the tax justly due, and make return of the facts under affidavit to the county clerk.

Sec. 2610. If the treasurer discovers before the sale that on account of irregular assessment, or of any other assessment, any land ought not to be sold, he must not offer the land for sale; and the Board of County Commissioners must cause the assessor to enter the uncollected taxes upon the assessment book, of the next succeeding year, to be collected as other taxes entered thereon.

Sec. 2611. When land is sold for taxes correctly imposed as the property of a particular person, no misnomer of the owner, or supposed owner, or other mistake relating to the ownership thereof, affects the sale, or renders it void or voidable.

Sec. 2612. If any person removes from one county to another after being assessed on personal property, the treasurer of the county in which he was assessed may sue for and collect the same in the name of the county where the assessment was made.

Sec. 2613. On the trial a certified copy of the assessment signed by the county clerk of the county where the same was made, with the affidavit of the treasurer thereto attached, that the tax has not been paid, describing it as on the assessment book or delinquent list is *prima facie* evidence that such tax and the per centum are due, and entitles him to judgment, unless the defendant proves that the tax was paid.

Sec. 2614. The treasurer and county clerk must allow the expenses of collecting such tax, and permit a deduction thereof from the amount collected, if they do exceed one-third of the amount of the tax collected.

Sec. 2615. Whenever property is advertised for sale for the non payment of delinquent taxes, and the assessment is valid in part and void for the excess, the sale must not for that cause be deemed invalid, nor any grant subsequently made thereunder be held to be insufficient to pass a title to the grantee, unless the owner of the property, or his agent, not less than six days before the time at which the property is advertised to be sold, delivers to the treasurer a protest in writing, signed by the owner or agent, specifying the portion of the tax which he claims to be invalid, and the ground upon which such claim is based.

Sec. 2616. In case any owner of property advertised to be sold for delinquent taxes, at least six days before the time advertised for the sale to take place, delivers to the county treasurer his protest in writing against such sale, signed by himself or his agent, claiming that the assessment is void in whole or in part, and if in part only, for what portion, and in either specifying the grounds upon which such claim is founded, it is the duty of the treasurer either:

1. To sell the property assessed for the whole amount appearing upon the duplicate assessment book; or,

2. Withdraw the property from sale, and report the case to the Board of County Commissioners for its direction in the premises; and in such case the board may either direct the foreclosure of the lien of such tax by action, which proceeding is hereby authorized to be had, or direct the treasurer to proceed with the sale.

Sec. 2617. In case property assessed for taxes is purchased by the county, pursuant to provisions of Section 2577, of this Code, it must be assessed the next year for taxes in the same manner as if it had not been so purchased. But it must not be exposed for sale, and the sale thereof, under such assessment, must be adjourned until the time of redemption, under the previous sale, shall have expired.

Sec. 2618. In case an assessment is made under the provisions of the next preceding section, and the lands are not redeemed from a previous sale had under Section 2577, as provided by law, no sale must be had under the assessment authorized by the next preceding section unless directed by the board.

Sec. 2619. In case property is sold to the county as purchaser, pursuant to Section 2618, of this Code, and is subsequently assessed, pursuant to Section 2620, of this Code, no person must be permitted to redeem from such sale, except upon payment also of the amount of such subsequent assessment, costs, fees, and interest.

Sec. 2620. Whenever property sold to the county pursuant to the provisions of this Chapter is redeemed as herein provided, the moneys received on account of such redemption must be distributed as follows: The original tax and twenty per cent. paid in redemption must be apportioned between the State and county in the same proportion that the State tax bears to the county tax, and the balance must be paid to the county. The county treasurer must keep an accurate account of all money paid in redemption of property sold to the county, and must on the first Monday of June in each year make a detailed report, verified by his affidavit, of each account, year for year, to the State Auditor, in such form as the State Auditor may desire. Whenever the county receives from the county treasurer any grant of property so sold for taxes the same shall be recorded, at the request of the county treasurer, free of charge by the county clerk, and shall be immediately reported by the county treasurer to the Board of County Commissioners.

Sec. 2621. Whenever the county has become the purchaser of any real estate sold for delinquent taxes, and the same has not been redeemed by the person entitled so to do, and the time for such redemption has expired, the Board of County Commissioners may at any time, by an order duly made and entered upon the minutes of its proceedings, sell the same at public auction, and the chairman of the board is authorized to execute a deed therefor vesting in the purchaser all the title of the State and the county to the real estate so sold. The money arising from such sale must be paid into the county treasury, and the treasurer must settle for money so received as for other State and county money.

CHAPTER IX.

COLLECTION OF TAXES BY THE ASSESSOR ON CERTAIN PERSONAL PROPERTY.

Section 2625. When and by whom taxes on personal property collected.

Section 2626. Assessor may collect such taxes by seizure and sale.
" *2627. Mode of conducting such seizure and sale.*
" *2628. Rate of previous year governs amount of taxes collected.*
" *2629. Return of excess where lower rate fixed for year of collection.*
" *2630. Collection of deficiency where higher rate is fixed.*
" *2631. Monthly settlement of assessor with county clerk.*
" *2632. Clerk to note amount of taxes paid by each person.*
" *2633. Clerk to note excesses or deficiencies in taxes paid.*

Sec. 2625. The assessor must collect the taxes on all personal property when, in his opinion, said taxes are not a lien upon real property sufficient to secure the payment of taxes.

Sec. 2626. In the case provided for in the preceding section at the time of making the assessment, or at any time before the second Monday of July, the assessor may collect the taxes by seizure and sale of any personal property owned by the person against whom the tax is assessed.

Sec. 2627. The provisions of Sections 2597 to 2602, inclusive, apply to such seizure and sale.

Sec. 2628. The assessor and treasurer are governed, as to the amount of taxes to be by them collected on personal property, by the State and county rate of the previous year.

Sec. 2629. When the rate is fixed for the year in which such collection is made, then, if the sum in excess of the rate has been collected, such excess shall not be apportioned to the State, but the whole thereof shall remain in the county treasury, and must be repaid by the county treasurer to the person from whom the collection was made, or to his assignee; on demand therefor.

Sec. 2630. If a sum less than the rate fixed has been collected the deficiency must be collected as other taxes on personal property are collected.

Sec. 2631. The assessor, on the first Monday of each month, must make a settlement with the county clerk, and must pay into the county treasury all moneys collected by him for such taxes during the preceding month.

Sec. 2632. The county clerk must, as soon as the "assessment book" for the year comes into his hands, note opposite the names of each person from whom taxes have been collected by the assessor the amount thereof.

Sec. 2633. As soon as the rate of taxation for the year is fixed, the county clerk must note, in connection with the entry made under the provisions of the preceding section, the amount of the excess or deficiency.

CHAPTER X.

POLL TAX.

Section 2638. Persons liable to poll tax.
" *2639. When poll tax may be collected.*
" *2640. Blank tax receipts furnished.*
" *2641. Style to be changed every year.*
" *2642. County treasurer's duties.*
" *2643. County clerks to sign blanks and make entry of number signed.*
" *2644. Blanks to be delivered and charged to assessor.*
" *2645. Poll tax may be collected by seizure.*
" *2646. Seizure and sale, how made.*
" *2647. Debtors of persons owing poll tax to pay tax for such person.*
" *2648. Corporations liable for poll tax.*
" *2649. Assessor may require statement.*
" *2650. May seize property of corporation.*
" *2651. Who are debtors under the preceding section.*
" *2652. Debtor may charge creditor for poll tax paid.*
" *2653. Receipt of poll tax delivered to purchaser.*
" *2654. Receipt only evidence of payment.*
" *2655. Monthly settlement.*
" *2656. Assessor's return of receipts to county clerk and yearly settlement.*
" *2657. County clerk to return to treasurer receipts not used.*
" *2658. Treasurer to credit county clerk with such receipts.*
" *2659. Assessor to keep list of persons subject to poll tax.*
" *2660. Roll to be returned to county clerk.*
" *2661. Poll tax a lien on property, when.*
" *2662. Proceeds to be paid to poor fund.*

Sec. 2638. Every male inhabitant of this State, over twenty-one and under sixty years of age, except paupers, insane persons, and Indians, not taxed, must annually pay a poll tax of two dollars.

Sec. 2639. Poll tax may be collected by the assessor at any time during the year.

Sec. 2640. The county treasurer must, before the first Monday of March of each year, cause to be printed blank poll tax receipts for the use of the assessor.

Sec. 2641. The style of such blanks must be changed every year.

Sec. 2642. The treasurer must, before the first Monday in March of each year:

1. Number and sign the blank poll tax receipts.

2. At the time of signing make an entry of the whole number thereof, and of the first and last number placed thereon, in a book by him kept for that purpose.

3. Deliver all such blanks to the county clerk, and charge him therewith.

Sec. 2643. The county clerk, upon the receipt thereof, must sign the same, and make in a book to be kept by him for that purpose a similar entry to that prescribed in Subdivision 2, of the preceding section.

Sec. 2644. The county clerk must, at any time after the first Monday in March, deliver to the assessor the blanks and charge him therewith.

Sec. 2645. The assessor must demand payment of poll tax of every person liable therefor, and on the neglect or refusal of such person to pay the same, he must collect by seizure and sale of any personal property owned by such person.

Sec. 2646. The sale may be made after three hours' verbal notice of time and place, and the provisions of Sections 2597, 2599 to 2602, inclusive, apply to such seizure and sale.

Sec. 2647. Every person indebted to one who neglects or refuses, after demand, to pay a poll tax becomes liable therefor, and must pay the same for such other person, after service upon him by the assessor of a notice in writing, stating the name of such person.

Sec. 2648. Every person, corporation or association employing one or more persons subject to poll tax are liable for any and all poll taxes that may be due from such employes, and may deduct the amount paid out for such poll taxes from any sums due, or that may afterwards become due, from such employes, whether the wages are payable directly to the employes or to other persons who furnish such employes under contract.

Sec. 2649. The assessor may require the person or his agent or any officer or agent or manager of any association or corporation to make a verified statement showing the number and giving the names of the employes of such persons, association or corporation, and if such statement is not furnished the assessor must make an estimate of the persons so employed and assess them, and such assessment is as valid as if made on a verified statement. The person, association or corporation refusing to make such verified statement, forfeits the sum of five hundred dollars, which may be recovered in an action brought in the name of the county.

Sec. 2650. The assessor, in case of a failure of a person, corporation or association to pay the poll tax in the manner mentioned in this Chapter, must seize so much of the property of such person, association or corporation as will be sufficient to pay the poll tax and costs, and sell the same as provided in this Chapter.

Sec. 2651. Every officer authorized to draw the warrants for or to pay the salary or fees of any officer is the debtor of such officer within the meaning of the preceding section.

Sec. 2652. Every person paying the poll tax of another may deduct the same from any indebtedness of such other person.

Sec. 2653. The assessor must deliver the poll tax receipt, filled out with the name of the person owing the taxes, to the purchaser of property at any such sale; in other cases he must deliver it, filled out in like manner, to the person paying the tax.

Sec. 2654. The receipt so delivered is the only evidence of payment.

Sec. 2655. On the first Monday in each month the assessor must make oath before the county clerk, of the total amount of poll taxes collected by him during the last preceding month, and must, at the same time, settle with the county clerk for the same, and pay into the county treasurer's office the total amount of poll taxes collected, less the per centum paid for fees.

Sec. 2656. On the first Monday in December of each year the assessor must return to the county clerk all the poll tax receipts received by him and not used, and must make final settlement with the county clerk and treasurer therefor.

Sec. 2657. The county clerk must, as soon as the settlement is made, return to the treasurer the receipts not used.

Sec. 2658. The treasurer must credit the county clerk with the receipts so returned, and must thereupon seal them up securely and deposit them in his office.

Sec. 2659. The assessor must keep a roll of the names and local residence, or place of business, of all persons subject to or liable to poll tax, and, if paid, date and amount of each payment, and if not paid, cause of non payment.

Sec. 2660. On the third Monday in January in each year the assessor must deliver to the county clerk the roll so made up, and the county clerk must add to the total poll tax delinquent on such roll thirty-three and one-third per centum additional, and without delay deliver such list to the county treasurer, and charge him therewith.

Sec. 2661. If any person assessed for a property tax has not paid to the assessor the poll tax due from him, or for which he is liable, it, with thirty-three and one-third per cent. in addition thereto, constitutes a lien upon the property assessed to such person, to attach from the first Monday in March in each year, and must be collected in the same manner and at the same time as delinquent taxes are collected.

Sec. 2662. The proceeds of the poll tax must be paid to the county treasurer, as provided by law, for the exclusive use of the poor fund of the county.

CHAPTER XI.

SETTLEMENTS WITH THE STATE AUDITOR AND PAYMENTS INTO THE STATE TREASURY.

Section 2668. County treasurers to settle with auditor for, and pay over to treasurer upon their order all State moneys on hand.

Section 2669. Penalty imposed on treasurers neglecting to settle.
" *2670. Report of county clerk to State Auditor.*
" *2671. County clerk to send report to State Aaditor and county treasurer.*
" *2672. Penalty for failure of county clerk to make or transmit report.*
" *2673. Deduction by State Auditor on settlement.*
" *2674. State Auditor's statement on county clerk's report and return of copy thereof.*
" *2675. County treasurer to file with county clerk such returned copy.*
" *2676. County clerk to make certain entries.*
" *2677. Rate of mileage allowed treasurer.*
" *2678. State Auditor may examine books of any revenue officer.*
" *2679. Directing prosecution of delinquent revenue officers for fraudulent or other misconduct.*
" *2680. Special counsel may be employed; provision for expenses.*

Sec. 2668. The treasurers of the respective counties must at any time, upon the order of the State Auditor and State Treasurer, settle with the State Auditor, and pay over to the State Treasurer all moneys in their possession belonging to the State, and must, without such order, settle and pay over the moneys on the first Mondays of January and July in each year.

Sec. 2669. Every county treasurer who neglects or refuses to appear at the office of the State Auditor and State Treasurer at the times specified in this Title, and then and there to settle and make payment as herein required, forfeits his salary for that quarter and the expenses which would have otherwise been due him on such settlement; and the State Auditor is required to withhold such.

Sec. 2670. The county clerk of each county, between the first and tenth days of each month in which the treasurer of his county is required to settle with the State Auditor, must make, in duplicate, in such form as the State Auditor may desire, showing specifically the amount due the State from each particular source of revenue, at the close of business on the last day of the preceding month.

Sec. 2671. The county clerk must at once transmit by mail to the State Auditor one copy of the report, and must deliver the other copy to the treasurer of his county.

Sec. 2672. Every county clerk who fails to make and transmit the report required by this Chapter, or any other report or statement required by this Title, forfeits all salary which would be otherwise due him from the county, and the county commissioners must withhold such compensation.

Sec. 2673. In the settlement the State Auditor must deduct the expenses allowed to the county treasurer for his traveling, the State's portion of the repayments made under Section 2629, and any other amount due the county or the officers thereof.

Sec. 2674. The State Auditor must, after the county treasurer has made settlement and payment, enter upon each copy of the county clerk's report a statement showing:

1. The amount of money by the county treasurer paid into the State treasury:

2. The amount deducted for allowances.

And must then return one copy of the report to the county treasurer.

Sec. 2675. The county treasurer must file with the county clerk of his county the copy returned to him by the State Auditor.

Sec. 2676. The county clerk must then make the proper entries in his account with the treasurer.

Sec. 2677. The State Auditor must, in the settlement, allow the county treasurer the actual expenses incurred by him in making such settlement, which expenses must only include the money actually paid out by him in traveling to and from his county seat and the seat of government, and for meals and lodging on the trip, which claim must be presented to and allowed by the Board of Examiners.

Sec. 2678. The State Auditor, as well as the State Examiner, may examine the books of any officer charged with the collection and receipt of State taxes.

Sec. 2679. If, on examination, it is found that any officer has been guilty of defrauding the State of revenue, or has neglected or refused to perform any duty relating to the revenue, the State Auditor must direct the Attorney General, or other counsel, to prosecute the delinquent.

Sec. 2680. The State Auditor or Attorney General may employ other counsel, and the expenses must be audited by the Board of Examiners and be paid out of the State treasury.

CHAPTER XII.

MISCELLANEOUS PROVISIONS.

Section 2685. Defects, etc., in form of assessment book may be supplied.
" *2686. Omissions, etc., in delinquent lists, how corrected.*
" *2687. Publication of such lists.*
" *2688. Abbreviations, etc.*
" *2689. Informality does not make assessment illegal.*
" *2690. Fines and forfeitures to be paid to county treasurer.*
" *2691. Annual settlements.*

Section 2692. Saving clause.
" *2693. Deputies for assessors.*
" *2694. State board may dispense with duplicate.*
" *2695. Collection of taxes by action.*
" *2696. Complaint in action for taxes.*
" *2697. Supplemental assessment.*
" *2698. Injunction does not lie.*

Sec. 2685. Omissions, errors or defects in form in any original or duplicate assessment book, when it can be ascertained therefrom what was intended, may, with the consent of the county attorney, be supplied or corrected by the assessor at any time prior to the sale for delinquent taxes, and after the original assessment was made.

Sec. 2686. When the omission, error or defect has been carried into a delinquent list or any publication, the list or publication may be republished as amended, or notice of the correction may be given in a supplementary publication.

Sec. 2687. The publication must be made in the same manner as the original publication, and for not less than one week.

Sec. 2688. In the assessment of land, advertisement and sale thereof for taxes, initial letters, abbreviations and figures may be used to designate the township, range, section or parts of section.

Sec. 2689. No assessment or act relating to assessment or collection of taxes is illegal on account of informality, nor because the same was not completed within the time required by law.

Sec. 2690. The fines, forfeitures and penalties incurred by a violation of any of the provisions of this Title must be paid into the treasury for the use of the county where the person against whom the recovery is had resides.

Sec. 2691. Every assessor, county attorney and county treasurer must annually, on the first Monday of January, make a settlement with the county clerk of all transactions connected with the revenue for the previous year, and every county treasurer, on the expiration of his office, must make such settlement.

Sec. 2692. All taxes assessed before the provisions of this Title take effect must be collected under the laws in force at the time the assessment was made, and in the same manner as if this Code had not been passed.

Sec. 2693. The Board of County Commissioners may allow the assessor such a number of deputies, not exceeding two in counties of the first class, to be appointed by him as will, in the judgment of the board, enable the assessor to complete the assessment within the time prescribed by law.

Sec. 2694. The State Board of Equalization may, by an order entered upon its minutes and certified to the county clerk of any county in the State, dispense with the duplicate assessment book in such county, in which event the original assessment book must perform all the offices of such duplicate, and must have like force and effect.

Sec. 2695. The State Auditor may, at any time after a delinquent list has been delivered to a county treasurer, direct such treasurer not to proceed in the collection of any tax on said list, amounting to three hundred dollars, further than to offer for sale but once any property upon which such tax is a lien. Upon such direction, the county treasurer, after offering the property for sale once, and there being no purchaser in good faith, must make out and deliver to the State Auditor a certified copy of the entries upon the delinquent list relative to such tax; and the treasurer or State Auditor, in case the treasurer refuses or neglects for fifteen days after being directed to bring suit for collection by the State Auditor, may proceed by civil action in the proper court, and in the name of the State of Montana, to collect such tax and costs.

Sec. 2696. In such action a complaint in the following form is sufficient:

(Title of Court.)

The State of Montana }
vs. }
(Naming the defendant.) }

Plaintiff avers that the defendant is indebted to plaintiff in the sum of $———, State and county taxes for the fiscal year 189—, with ten per cent. added for the non payment of such taxes, and ——— dollars, costs of collection, to date. Plaintiff demands judgment for said several sums, and prays that a writ of attachment may issue in form as prescribed by law.

(Signed by the County Treasurer, or State Auditor, or his attorney.)

On the filing of such complaint the clerk must issue a summons and the writ of attachment prayed for, and such proceedings shall be had thereunder as under writs of attachment issued in civil actions. If, in such action, the plaintiff recover judgment, there shall be included in such judgment an attorney's fee of ten per cent. on the amount of the tax. In such action the certified copy mentioned in the preceding section made by the treasurer and delivered to the State Auditor, is *prima facie* evidence that the person against whose property the tax was levied is indebted to the State of Montana in the amount of such tax. In case of payment of any such taxes after suit as above mentioned shall have been commenced, or after the recovery of judgment therefor, such payment must be made to the county treasurer of the county in which such taxes are due, whereupon the treasurer, after distributing to the several funds of the county the portions belonging to it and paying to the State Auditor, or his attorney, the portion received as attorney's fees and other costs, must pay the remainder to the State Treasurer at the times and in the manner prescribed by law for the payment of other State taxes.

Sec. 2697. When any personal property liable to taxation is brought into a county at any time after the second Monday of July, and such property has not been assessed for that year, it must be listed and assessed the same as if it had been in the county at the time of the regular assessment, and the tax must be collected by the assessor, as provided in this Title, at any time.

Sec. 2698. No injunction must be granted by any court or judge to restrain the collection of any tax or any part thereof, nor to restrain the sale of any property for the non payment of taxes, except:

1. Where the tax, or the part thereof sought to be enjoined, is illegal, or is not authorized by law. If the payment of a part of a tax is sought to be enjoined, the other part must be paid before action can be commenced.

2. Where the property is exempt from taxation.

CHAPTER XIII.

LICENSES.

Article I. General provisions.
" II. Classification of licenses.

ARTICLE I.

GENERAL PROVISIONS.

Section 2720. Licenses to be prepared and printed.
" 2721. County clerk to number, sign, and deliver.
" 2722. County clerk to keep license account.
" 2723. When license to be procured.
" 2724. Suit against delinquent.
" 2725. County treasurer, duties.
" 2726. Proof on trial.
" 2727. Settlements when made.
" 2728. Fee for licenses.
" 2729. Lien of license.
" 2730. Money received from licenses, how disposed of.
" 2731. License, how revoked.

Sec. 2720. The county clerk must prepare and have printed, blank licenses of all classes mentioned in this Chapter, with a blank receipt attached for the signature of the county treasurer when sold.

Sec. 2721. The county clerk must affix his official seal to, number and sign all licenses, and from to time deliver them to the county treasurer in such quantity as may be required, taking his receipt therefor, and charge him therewith, giving in the entry the numbers, classes, and amount thereof.

Sec. 2722. The county clerk must keep in his office the stubs of all licenses by him delivered to the county treasurer, and a ledger in which he must keep the county treasurer's account for all licenses delivered to him, sold or returned unsold by him.

Sec. 2723. A license must be procured immediately before the commencement of any business or occupation liable to a license tax from the county treasurer of the county where the applicant desires to transact the same, which license authorizes the party obtaining the same in his town, city or particular locality in the county to transact the business described in such license; separate licenses must be obtained for each branch establishment or separate house of business located in the same county. No license issued under this Chapter authorizes any person to carry on any business within the limits of any incorporated city or town having power by its charter to impose or levy city or town license taxes, unless such person in addition to the license provided by this Chapter, also procures the license required by the ordinances or orders of such city or town.

Sec. 2724. Against any person required to take out a license who fails, neglects, or refuses to take out such license, or who carries on or attempts to carry on business without such license, the county treasurer may direct suit in the name of the State of Montana as plaintiff to be brought for the recovery of the license tax; and in such case either the treasurer or attorney may make the necessary affidavit for and a writ of attachment may issue without any bonds being given on behalf of the plaintiff; and in case of a recovery by the plaintiff, fifteen dollars damages must be added to the judgment and costs to be collected from the defendant.

Sec. 2725. The county treasurer must make diligent inquiry as to all persons in his county liable to pay license as provided in this Chapter, and must require, where the rate of license is divided into classes, each person to state under oath or affirmation, the probable amount of business which he or the firm of which he is a member, or for which he is an agent or attorney, or the association or corporation of which he is president, secretary, or managing agent, will do in the next succeeding three months; and thereupon such person, agent, president, secretary, or other officer must procure a license from the county treasurer for the term desired and the class for which such party is liable to pay; and in all cases where an underestimate has been made by the party applying, the party making such underestimate or the company he represented are required to pay for a license for the next quarter double the sum otherwise required.

Sec. 2726. Upon the trial of any action authorized by this Chapter the defendant is deemed not to have procured the proper license unless he either produces it or proves that he did procure it; but he may plead in bar of the action a recovery against him and the payment by him in a civil action of the proper license tax, together with damages and costs.

Sec. 2727. On the first Monday in each month the county treasurer must return to the county clerk all licenses unsold, and show that he has paid into the county treasury all moneys collected for licenses sold during the preceding month.

Sec. 2728. For each license issued the county treasurer must collect a fee of one dollar, which must be paid into the general fund of the county.

Sec. 2729. All property held or used in any trade, occupation, or profession for which a license is required by the provisions of this Chapter is liable for such license, and subject to a lien for the amount thereof, which lien has precedence of any other lien, claim, or other demand; and if any person fails or refuses to procure a license before the transaction of the business specified, the county treasurer must seize such property or any other property belonging to such person, and sell the same in the manner provided in Sections 2597 to 2602, inclusive, of this Code.

Sec. 2730. All moneys collected for licenses must be paid into the treasury of the county in which the same was collected, seventy-five per cent. thereof for the use of the county, and twenty-five per cent. thereof must be paid over by the county treasurer to the State Treasurer for the use of the State.

Sec. 2731. The conviction of any person for a violation of the law in relation to gambling or the sale of intoxicating liquors, is a revocation of the license to such person.

ARTICLE II.

CLASSIFICATION OF LICENSES.

Section 2736. Auctioneers.
" *2737. Bankers.*
" *2738. Billiard tables, theatres, etc.*
" *2739. Sellers of spirituous or malt liquors in less quantities than one quart.*
" *2740. Sales at fixed place of business.*
" *2741. In quantities not less than one quart.*
" *2742. Traveling merchant, hawker and peddler.*

" *2744. Pools upon races.*
" *2745. Brewers.*
" *2746. Distillers.*
" *2747. Keeper of stallions.*
" *2748. Telephone, telegraph, gas and electric light companies.*
" *2749. Professions and insurance agents.*
" *2750. Keeper of livery and feed stable.*

Section 2751. Common carriers and express.
" 2752. Keeper of restaurant.
" 2753. Assayers.
" 2754. Keeper of roller skating rink.
" 2755. Keeper of ferry and water company.
" 2756. Laundry.
" 2757. Same.
" 2758. Horse, steam, motor and electric railroad company.
" 2759. Architects, builder, contractor, loan agent, manufacturer.
" 2760. Sleeping car company.
" 2761. Dining car company.
" 2762. News company on cars.

Sec. 2736. Auctioneers are divided into eight classes, and must obtain licenses from the county treasurer as follows:

1. Those whose monthly sales amount to one hundred thousand dollars and upwards constitute the first class, and must pay a license of four hundred dollars per quarter.

2. Those whose average monthly sales amount to seventy-five thousand dollars, and less than one hundred thousand dollars, constitute the second class, and must pay a license tax of three hundred dollars per quarter.

3. Those whose monthly sales amount to fifty thousand dollars, and less than seventy-five thousand dollars, constitute the third class, and must pay a license tax of two hundred dollars per quarter.

4. Those whose average monthly sales amount to thirty thousand dollars, and less than fifty thousand dollars, constitute the fourth class, and must pay a license tax of one hundred and twenty-five dollars per quarter.

5. Those whose average monthly sales amount to twenty thousand dollars, and less than thirty thousand dollars, constitute the fifth class, and must pay a license tax of one hundred dollars per quarter.

6. Those whose average monthly sales amount to ten thousand dollars, and less than twenty thousand dollars, constitute the sixth class and must pay a license tax of sixty dollars per quarter.

7. Those whose average monthly sales amount to twenty-five hundred and less than ten thousand dollars, constitute the seventh class, and must pay a license tax of twenty-five dollars per quarter.

8. Those whose average monthly sales amount to less than twenty-five hundred dollars constitute the eighth class, and must pay a license tax of fifteen dollars per quarter.

Sec. 2737. Persons engaged in banking, loaning money at interest, or in buying or selling notes, bonds, or other evidences of indebtedness of private persons; or in buying or selling

State, county, or city stocks, or other evidences of State, county, or city indebtedness, or stocks, or notes, bonds, or other evidences of indebtedness of incorporated companies; or in buying or selling gold dust, gold or silver bullion, or gold or silver coin, are divided into six classes, and must pay licenses as follows:

1. Those doing business in the aggregate to the amount of two hundred and fifty thousand dollars per quarter and over constitute the first class, and must pay a license of one hundred dollars per quarter.

2. Those doing business to the amount of two hundred thousand dollars and less than two hundred and fifty thousand dollars per quarter constitute the second class, and must pay a license of eighty dollars per quarter.

3. Those doing business to the amount of one hundred thousand dollars and less than two hundred thousand dollars per quarter constitute the third class, and must pay a license of forty dollars per quarter.

4. Those doing business to the amount of fifty thousand dollars and less than one hundred thousand dollars per quarter constitute the fourth class, and must pay a license of twenty-five dollars per quarter.

5. Those doing business in any amount under fifty thousand dollars and over five thousand dollars per quarter constitute the fifth class, and must pay a license of fifteen dollars per quarter.

6. Those doing business in any amount under five thousand dollars per quarter constitute the sixth class, and must pay a license of ten dollars per quarter.

Sec. 2738. Licenses must be obtained for the purposes hereinafter named, for which the county treasurer must require payment as follows:

1. For each proprietor of a billiard, pool or bagatelle table not kept exclusively for family use, for each table five dollars per quarter; and for a bowling alley five dollars per quarter for each alley; but no license must be granted for a term less than three months.

2. The manager or lessee of every theater (not a variety or concert theater), one dollar per day, or fifteen dollars per month; from each variety or concert theater, fifty dollars per month; for each single exhibition of opera or concert singer (not exhibited in any theater where a monthly license is paid), two dollars; for minstrels, legerdemain or other shows not herein provided for, four dollars for each single performance (when not in a theater where a monthly license is taken out); for every circus, or menagerie, including side shows, one hundred dollars per day; but no licenses must be collected from any amateur exhibition or concert for school or charitable or religious purposes.

3. From each pawnbroker fifty dollars per quarter.

4. From each keeper of an intelligence office five (5) dollars per quarter.

5. From each keeper of a shooting gallery for gain, ten dollars per quarter.

Sec. 2739. Every person who sells spirituous, malt, or fermented liquors or wine, in less quantities than one quart, must obtain a license from the county treasurer, as prescribed in this Chapter, and make therefor the following payment:

1. Those making sales to the amount of ten thousand dollars or more as a monthly average, constitute the first class, and must pay sixty dollars per month.

2. Those making sales to the amount of five thousand dollars, and not exceeding ten thousand dollars, as a monthly average, constitute the second class, and must pay fifty dollars per month.

3. And those making sales of less than five thousand dollars constitute the third class, and must pay forty dollars per month.

All clubs organized for social purposes or otherwise, whether such liquors are used or drank by members of such clubs, or other persons, are included under the provisions of this section, and the delivery of such liquors either to a member or another person, is a sale thereof.

Sec. 2740. Every person who, at a fixed place of business, sells any goods, wares, or merchandise, wines or distilled liquors, drugs or medicines, jewelry or wares of precious metals, whether on commission or otherwise, and all butchers, must obtain from the county treasurer in which the business is transacted, and for each branch of such business, license, and pay quarterly therefor an amount of money to be determined by the class in which such person is placed by the county treasurer; such business to be classified and regulated by the amount of the average monthly sales made or hiring done, and at the rate following:

1. Those who are estimated to make average monthly sales to the amount of one hundred thousand dollars or more, constitute the first class, and must pay one hundred dollars per month.

2. Of seventy-five thousand dollars and less than one hundred thousand dollars, constitute the second class, and must pay seventy-five dollars per month.

3. Of fifty thousand dollars and less than seventy-five thousand dollars, constitute the third class, and must pay fifty dollars per month.

4. Of forty thousand dollars and less than fifty thousand dollars, constitute the fourth class, and must pay thirty dollars per month.

5. Of thirty thousand dollars, and less than forty thousand dollars, constitute the fifth class, and must pay twenty-five dollars per month.

6. Of twenty thousand dollars, and less than thirty thousand dollars, constitute the sixth class, and must pay twenty dollars per month.

7. Of ten thousand dollars, and less than twenty thousand dollars, constitute the seventh class, and must pay fifteen dollars per month.

8. Of five thousand dollars, and less than ten thousand dollars, constitute the eighth class, and must pay ten dollars per month.

9. Of two thousand five hundred dollars and less than five thousand dollars, constitute the ninth class, and must pay seven dollars and fifty cents per month.

10. Of all amounts over twelve hundred and fifty dollars and under two thousand five hundred dollars per month, constitute the tenth class, and must pay five dollars per month.

11. Of all amounts less than twelve hundred and fifty dollars per month, constitute the eleventh class, and must pay four dollars per month.

Sec. 2741. The sale of liquors and wines by persons licensed under the preceding section must not be in less quantity than one quart measure. No license must be required of physicians, surgeons, apothecaries, or chemists for any wines or spirituous liquors they may use in the preparation of medicines. And no further or other license is required of any butcher by reason of any wagon used in connection with his business.

Sec. 2742. Every traveling merchant, hawker, or peddler who carries a pack and vends goods, wares or merchandise must pay a license of five dollars per quarter; and every such traveling merchant, hawker, or peddler who uses a wagon and one animal must pay a license of fifteen dollars per quarter, or if he use two or more animals for the purpose of vending such goods, wares, or merchandise of any kind, must pay for a license twenty dollars per quarter. But the peddler who carries for sale the agricultural productions of this State or any article manufactured by him is not included in the provisions of this section.

Sec. 2744. Every person, corporation or association that authorizes or permits the sale of pools on any race upon the grounds or track of such person, corporation or association; or that permits any race upon such ground or track on which any pools have been sold must, for each day upon which any such race takes place, pay a license of one hundred dollars.

Sec. 2745. Every brewer or manufacturer of malt liquors, and every person who sells malt liquors in quantities of five gallons or more, whose sales amount to one thousand dollars or more per month must pay a license of twenty dollars per month; whose sales amount to less than one thousand and more than five hundred dollars per month must pay a license of ten dollars per month; whose sales amount to less than five hundred per month, and every manufacturer of pop, soda, or other like drink put up in bottles, five dollars per month.

Sec. 2746. Every distiller, manufacturer or rectifier of spirituous liquors, must pay a license of six hundred dollars per year.

Sec. 2747. Every person who keeps a stallion, jack, or bull, and who permits the same to be used for the purpose of propagation for hire, must annually obtain a license therefor from the county treasurer and pay therefor as follows:

1. Horses that are hired for the purpose of propagation by the season, at one hundred dollars or more, constitute the first class, and require a license of seventy-five dollars.

2. At seventy-five dollars, and less than one hundred dollars, constitute the second class, and require a license of sixty dollars.

3. At fifty dollars and less than seventy-five dollars, constitute the third class, and require a license of forty dollars.

4. At thirty dollars, and less than fifty dollars, constitute the fourth class, and require a license of twenty-five dollars.

5. At fifteen dollars, and less than thirty dollars, constitute the fifth class, and require a license of fifteen dollars.

6. All at less than fifteen dollars constitute the sixth class, and require a license of ten dollars.

7. For each jack ten dollars.

8. For each bull ten dollars.

A license so obtained from the county treasurer, under the provisions of this Chapter, entitles the holder thereof to the right to go into any county of this State for the purpose of propagation without further license or expense.

Sec. 2748. Every person, corporation, or association doing business in any place in this State as a telephone, telegraph, gas or electric light company must pay a license of three hundred dollars per year, in each county in which such business is transacted.

Sec. 2749. Every person practicing a profession as a lawyer, dentist, physician, surgeon, photographer, or any other profession, or an insurance or real estate agent or otherwise, must pay a license of four dollars per quarter. Every person who draws any legal instrument or paper for which a fee is charged or money paid therefor is practicing a profession under this section.

Sec. 2750. Every keeper of a livery or feed stable, must pay a license of fifteen dollars per quarter, and all keepers of hay yards, corrals for feeding stock or selling hay must pay a license of eight dollars per quarter. For all omnibuses, carriages and express wagons that are run for hire or profit, drawn by one horse shall be paid two dollars and fifty cents per quarter, and for each additional horse used therewith, two dollars and fifty cents per quarter.

Sec. 2751. Every person, association or corporation who engages as a common carrier in transmitting or conveying gold dust, gold and silver coin or bullion, money or bank notes, packages or express matter, or passengers from one place to another for hire or profit, must procure a license and pay therefor in each county where the business is transacted as follows: Those doing business to the amount of fifty thousand dollars or over per quarter, must pay one hundred and fifty dollars per quarter. Those doing business in any county to the amount of forty thousand dollars, and under fifty thousand dollars per quarter, must pay one hundred dollars per quarter. Those doing business in any county to the amount of thirty thousand dollars, and under forty thousand dollars per quarter, must pay seventy-five dollars per quarter. Those doing business in any county to the amount of twenty thousand dollars, and under thirty thousand dollars per quarter, must pay fifty dollars per quarter. Those doing business in any county to the amount of ten thousand dollars, and under twenty thousand dollars per quarter, must pay thirty dollars per quarter, and in any amount under ten thousand dollars per quarter must pay twenty-five dollars per quarter.

Sec. 2752. Every keeper of a restaurant, eating stand, lodging house, or hotel, must pay a license as follows: Those doing business in the aggregate of less than two thousand dollars per quarter must pay ten dollars per quarter, and those whose business is over two thousand dollars per quarter must pay ten dollars for each additional two thousand dollars, or a fractional part thereof, per quarter.

Sec. 2753. Every assayer who does a business of two hundred dollars per month, and not more than five hundred dollars per month, must pay a license of ten dollars per quarter; and all assayers doing a business of more than five hundred dollars per month must pay a license of twenty dollars per quarter.

Sec. 2754. Every keeper of a roller skating rink in cities or towns of three thousand people, and upward, must procure a license and pay therefor the sum of fifty dollars per quarter; and in towns of one thousand, and less than three thousand people, twenty-five dollars per quarter, and in towns of less than one thousand inhabitants ten dollars per quarter.

Sec. 2755. Every person keeping a ferry, and every water company, association, or person taking toll or selling water in incorporated cities, towns, or elsewhere, whose quarterly receipts amount to the sum of five hundred dollars, must pay a license tax of twenty dollars per quarter; those whose quarterly receipts do not amount to five hundred dollars, must pay ten dollars per quarter; those whose quarterly receipts amount to one thousand dollars, must pay forty dollars per quarter; those whose quarterly receipts amount to two thousand dollars must pay eighty dollars per quarter; those whose quarterly receipts amount to five thousand dollars must pay one hundred and fifty dollars per quarter; and those whose quarterly receipts amount to ten thousand dollars must pay a tax of two hundred and fifty dollars per quarter.

Sec. 2756. Every male person engaged in the laundry business, other than the steam laundry business, must pay a license of five dollars per quarter.

Sec. 2757. Every person who carries on a steam laundry must pay a license of twenty-five dollars per quarter.

Sec. 2758. Every person, corporation, or association engaged in carrying on the business of a horse, steam, motor, or electric railroad, must pay a license of seventy-five dollars per quarter.

Sec. 2759. Every architect, builder, contractor, loan, or real estate agent, or manufacturer, must pay a license of fifty dollars per year. Every person, corporation, or association, engaged in publishing a daily newspaper, must pay a license of one hundred dollars per year, and a weekly newspaper twenty-five dollars per year; but when a person, association, or corporation, publishes both a daily and weekly edition of the same newspaper, no license is required for the weekly edition.

Sec. 2760. Every person, corporation, or association must on the first day of May, of each year, pay a license of one hundred dollars on each sleeping car run or operated on any railroad in this State. A license must be issued for each car, and the money received must be paid into the State treasury, and the State Treasurer must pay the money so received to the county treasurers of the counties through or in which such cars are run or operated, in proportion to the number of miles of railroad over which such cars are run or operated. The license must be obtained from the State Treasurer, and the person, corporation, or association, or an authorized agent, must make a verified statement of the number and names of the sleeping cars used or to be used during the year, which statement must be filed in the office of the State Treasurer, and no license must be issued until such statement is filed.

Sec. 2761. Every person, corporation, or company, operating or running a dining car on any railroad in this State, must in the manner provided in the next preceding section, on the first day of May, of each year, obtain from the State Treasurer a license and pay into the State treasury the sum of one hundred dollars for each car so run or operated, which money must be paid to the county treasurers of the counties in or through which such car is run or operated, in the proportions provided in the next preceding section as to sleeping car license.

Sec. 2762. Every person, corporation, or association, engaged in selling newspapers, periodicals, books, fruit, stationery, or any other thing, on any cars run or operated on any railroad in this State must, before engaging in such business in the manner provided in the next preceding section, procure a license from the State Treasurer, and pay annually the sum of one hundred dollars into the State treasury, which money must be paid to the county treasurers of the counties in proportions provided in the next preceding sections as to sleeping and dining car license.

PART IV.

Government of Counties, Cities and Towns.

Title I. Counties.
" *II. The government of counties.*
" *III. The government of cities.*
" *IV. Liabilities of cities and counties for injuries to property by mobs or riots.*

TITLE I.

COUNTIES.

Chapter I. County boundaries and county seats.
" *II. General provisions relating to counties.*

CHAPTER I.

COUNTY BOUNDARIES AND COUNTY SEATS.

Section 2770. County defined.
" *2771. The counties of the State.*
" *2772. Same.*
" *2773. Due courses defined.*
" *2774. Other courses defined.*
" *2775. Meaning of terms.*
" *2776. Same:*
" *2777. Missoula county.*
" *2778. Deer Lodge county.*
" *2779. Beaverhead county.*
" *2780. Madison county.*
" *2781. Jefferson county.*
" *2782. Lewis and Clarke county.*
" *2783. Meagher county.*
" *2784. Gallatin county.*

Section 2785. Choteau county.
" 2786. Dawson county.
" 2787. Custer county.
" 2788. Silver Bow county.
" 2789. Yellowstone county.
" 2790. Fergus county.
" 2791. Park county.
" 2792. Cascade county.

Sec. 2770. A county is the largest political division of the State having corporate powers. [redacted]

Sec. 2771. The several counties as they existed at the time of the admssion of the State into the Union are the counties of the State until otherwise established or changed by law.

Sec. 2772. The counties at the time of the admission of the State into the Union were in the laws and Compiled Statutes of Montana named, bounded, and constituted as set forth in this Chapter, except the county of Deer Lodge is as described in the act of the Legislative Assembly of 1891, the word "Territory" being changed to "State."

Sec. 2773. In describing courses the words "north," "south," "east," and "west," mean true courses, and refer to the true meridian unless otherwise declared.

Sec. 2774. The words "northerly," "southerly," "easterly," and "westerly" mean due north, due south, due east, and due west, unless controlled by other words, or by lines, monuments, or natural objects.

Sec. 2775. The words "to," "on," "along," "with," or "by" a mountain or ridge mean summit point, or summit line, unless otherwise expressed.

Sec. 2776. The words "to," "by," "along," "with," "in," "up," or "down" a creek, river, slough, strait, or bay mean the the middle of the main channel thereof, unless otherwise expressed.

MISSOULA COUNTY.

Sec. 2777. All that portion of the State embraced within the following boundaries shall be known as Missoula county, to-wit: Commencing at the point of intersection of the parallel of forty-nine degrees, with the line of longitude, one hundred and sixteen degrees; thence along the said line of longitude south to the summit of the Bitter Root mountains, and along the summit of the Bitter Root mountains in a southerly direction to the summit of the Rocky mountains, and along the said summit of the Rocky mountains to the head waters of the middle branch of Stony creek; thence down the center of the said creek to Hell Gate river; thence up the center of the said Hell Gate river to a point known as Medicine hill; thence due north to the parallel forty-nine degrees, and along the said parallel of latitude to the place of beginning. The county seat is Missoula.

DEER LODGE COUNTY.

Sec. 2778. All that portion of the State embraced within the following described boundaries shall be known as the county of Deer Lodge, to-wit: Commencing in the middle of Hell Gate river, at a point directly opposite the most northerly point of the Medicine Tree hill; thence down the middle of said river to the mouth of Stony creek; thence up the middle of Stony creek to its middle branch; thence up the middle branch of Stony creek to a point due west of the southeast corner of Township No. 4 north, of Range No. 10 west, of the principal base and meridian of Montana; thence due east to said southeast corner of Township No. 4 north, of Range No. 10 west; thence north along the Deer Lodge guide meridian, to the closing corner to Township No. 4 north, between Ranges Nos. 9 and 10 west, on the first standard parallel north; thence along said standard parallel east to the southeast corner of Section 35, Township 5 north, Range 8 west; thence directly north from said southeast corner of Section 35, Township 5 north, of Range 8 west, to the northeast corner of Section 2, Township 6 north, Range 8 west; thence west along the north boundary of Township No. 6 north, of Range No. 8 west, to the summit of the main range of the Rocky mountains; thence along the summit of the said mountains in a northerly direction to a point directly north of the Medicine Tree hill; and thence due south to the place of beginning, in the middle of the Hell Gate river opposite the Medicine Tree hill.

The boundaries of Jefferson county shall conform to the boundaries herein established. The county seat is Deer Lodge city.

BEAVERHEAD COUNTY.

Sec. 2779. All that portion of the State embraced within the following boundaries shall be known as Beaverhead county, to-wit: Commencing at a point known as the Beaverhead rock; thence due south to the State line; thence along the southerly boundary of the State, following the State line to the first point thereon, where the southerly boundary line of Missoula county strikes the same; thence along the southern boundary line of Missoula county, in an easterly direction, to the point where the said line of Missoula county strikes the westerly boundary line of Deer Lodge county; thence along the southwesterly line of Deer Lodge county to the Big Hole river; thence down the center of the Big Hole river to the point where the westerly line of Madison county strikes the same; thence along the westerly line of Madison county to the place of beginning. The county seat is Dillon.

MADISON COUNTY.

Sec. 2780. All that portion of the State embraced within the following boundaries shall be known as Madison county, to-wit: Commencing at the Beaverhead rock on the Beaverhead river; thence in a right line in a northwesterly direction to the nearest point on Big Hole river; thence up said river to the mouth of Camp creek; thence up Camp creek to the right hand fork thereof; thence up the said right hand fork to its source; thence in a right line to the summit of Table mountain; thence in a direct line to Parson's bridge, on the Jefferson river; thence down the middle of the main channel of the Jefferson river to a point in said river opposite to where the Boulder river puts into the Jefferson river; thence in a right line in a southeasterly direction to the mouth of the Big Canon, on Willow creek; thence in a right line in an easterly direction to Foreman's crossing of the Madison river; thence in a right line east to the top of the main range or ridge of the mountains dividing the waters of the Gallatin and Madison rivers; thence south to the State line; thence west along said line to a point where the southeast corner of Beaverhead county strikes said State line; thence along the eastern boundary line of Beaverhead county in a northerly direction to the place of beginning. The county seat is Virginia City.

Additional territory attached to Madison and Beaverhead counties.

1. That portion of the public domain that is described in the Act of Congress approved February 17, 1873, entitled "An Act to readjust the western boundary of Dakota Territory," lying east of an extension due south of the line dividing the counties of Madison and Beaverhead, is hereby attached to and shall hereafter comprise a portion of the county of Madison.

2. All the remaining portion of said public domain lying west of said line, be and the same is hereby attached to and shall hereafter comprise a portion of the county of Beaverhead.

JEFFERSON COUNTY.

Sec. 2781. All that portion of the State embraced within the following boundaries shall be known as Jefferson county, to-wit: Commencing at the southeast corner of Lewis and Clarke county, on the Missouri river; thence up said Missouri river to the mouth of Jefferson river; thence up said Jefferson river to "Parson's Bridge" across said river; thence westerly along Parson's toll road (leading from said bridge to Butte City) to the point where said road crosses Fish creek; thence up said Fish creek to the base of the mountains; thence northerly to the summit of the main Rocky mountain range; thence along said Rocky range to the Bald mountains, at the head of Ten Mile creek, or the eastern boundary of Lewis and Clarke county; thence easterly along said boundary line to the place of beginning. The county seat is Boulder.

LEWIS AND CLARKE COUNTY.

Sec. 2782. All that portion of the State embraced within the following boundaries shall be known as Lewis and Clarke county, to-wit: Commencing at a point in the Missouri river opposite the mouth of Sun river: thence up said Sun river and the most northerly branch thereof, that heads in the Rocky mountains, to the crest of said Rocky mountains: thence southerly along the crest of said Rocky mountains to the head of Ten Mile creek; thence along the divide between Ten Mile creek and the waters of north Boulder to the divide between the waters of Lump gulch and Ten Mile creek; thence along the said divide to the divide between the waters of Grizzly gulch and Lump gulch; thence along the said divide to the divide between the waters that come into Dry gulch above Helena, and the waters of the Prickly Pear creek to the north peak of the mountains easterly from Helena, known as Dry Gulch mountains; thence due east to the Missouri river; thence down the middle of the broadest channel of said Missouri river to the place of beginning. The county seat is Helena.

MEAGHER COUNTY.

Sec. 2783. All that part of the State embraced within the following boundaries shall be known as Meagher county, to-wit: Commencing in the middle of the main channel of the Missouri river, opposite the mouth of Sixteen Mile creek; thence easterly along the center of the main channel of said Sixteen Mile creek four miles; thence north to the northern boundary of Gallatin county; thence due east along said line to the one hundred and ninth degree of longitude: thence due north along the one hundred and ninth degree of longitude to the middle of the main channel of the Musselshell river; thence down the middle of the main channel of Musselshell river to a point due east of the mouth of Smith's river; thence due west along the southern boundary line of Choteau county to the middle of the main channel of the Missouri river; thence up the middle of the main channel of the Missouri river to the place of beginning. The county seat is White Sulphur Springs.

GALLATIN COUNTY.

Sec. 2784. All that part of the State embraced within the following boundaries be known as Gallatin county, to-wit: Commencing at the southeast corner of Meagher county on the one hundred and ninth parallel of longitude, thence south along said parallel of longitude to a point in the middle of the Yellowstone river; thence up the middle of the Yellowstone river to the point where it is crossed by the forty-fifth parallel of latitude; thence west along said forty-fifth parallel to the one hundred and eleventh parallel of longitude; thence south along the one hundred and eleventh parallel to the summit of the Rocky mountains; thence westerly along the summit of the Rocky mountains to the southeastern corner of Madison county: thence northerly along the eastern line of Madison county to where it strikes Jefferson river; thence down the middle of Jefferson river to its mouth; thence down the middle of the Missouri river to a point opposite the mouth of Crow creek; thence due east to the place of beginning, on the one hundred and ninth parallel of longitude.

Amendment.

The northern boundary of Gallatin county shall be as follows, to-wit: Commencing at a point in the middle of the Missouri river, opposite the mouth of Sixteen Mile creek, thence easterly up the main channel of Sixteen Mile creek four miles: thence north to the south boundary of Meagher county: and thence due east along said line to the one hundred and ninth parallel of longitude.

Gallatin County Extended.

All that part of the Crow Indian reservation included in the treaty now pending before the Congress of the United States shall upon the ratification of said treaty be attached to and become a part of Gallatin county, Montana. The county seat is Bozeman.

CHOTEAU COUNTY.

Sec. 2785. All that portion of the State embraced in the following described boundaries shall be known as the county of Choteau, to-wit: Commencing at a point in the middle of the main channel of the Missouri river opposite to the mouth of Deep creek; thence due east to intersect with the one hundred and eighth meridian of longitude; thence due north along the one hundred and eighth meridian of longitude to the intersection of the forty-ninth parallel of latitude; thence due east along the forty-ninth parallel of latitude to a point directly north of Medicine Tree hill: thence due south to the summit of the main range of the Rocky mountains; thence along the summit of said mountains in a southerly direction to the head of the most northerly branch of Sun river that heads in the Rocky mountains; thence in an easterly direction down the middle of said branch of Sun river to its mouth: thence down the middle of the main channel of Sun river to the middle of the main channel of the Missouri river; thence up the middle of the main channel of the Missouri river to the place of beginning. The county seat is Fort Benton.

DAWSON COUNTY.

Sec. 2786. All that part of the State embraced within the following boundaries shall be known as Dawson county, to-wit: Commencing at the intersecting point of parallel of latitude forty-seven degrees, with meridian of longitude one hundred and eight degrees, and thence along said parallel forty-seven degrees to meridian of longitude one hundred and four degrees, and from thence along said meridian north to forty-ninth parallel of latitude, and from thence along said parallel forty-nine degrees to meridian of longitude one hundred and eight degrees, and from thence south along said meridian to place of beginning.

Amendment.

The southern boundary line of Dawson county shall be as follows, to-wit: Commencing ten miles south of the intersecting point of the twenty-seventh degree of longitude west from Washington, with the forty-seventh degree of north latitude; thence due west and parallel with said parallel of forty-seven degrees to the Musselshell river; thence following the line of said river to the northern boundary line of Meagher county; thence west along said line to the one hundred and eighth meridian of longitude. And the northern boundary line of Custer county shall be made to conform to the southern boundary line of Dawson county, so far as said Dawson county extends. The county seat is Glendive.

CUSTER COUNTY.

Sec. 2787. All the remaining portion of the State not included in the counties hereinafter named in this Chapter shall be known as Custer county. The county seat is Miles City.

SILVER BOW COUNTY.

Sec. 2788. The territory included within the following metes and bounds shall be known as Silver Bow county, to-wit: Beginning at a point where the first standard parallel north of the base line, according to the government survey of public lands in Montana intersects the main range of the Rocky mountains; thence running west along said first standard parallel to the point where said parallel intersects the Deer Lodge guide meridian; thence south six miles, more or less, to the southeast corner of Township No. 4, north of Range No. 10, west of the principal base and meridian for Montana; thence west to the intersection of the middle branch of Stony creek; thence up the middle of Stony creek to the summit of the Rocky mountains; thence in a southerly direction to the nearest stream of water that empties into the Big Hole river; thence down the center of said river to the mouth of Camp creek; thence up Camp creek to its right hand fork; thence up said fork to its source; thence in a direct line to the summit of Table mountain; thence in a direct line to Parson's bridge on the Jefferson river; thence westerly along Parson's toll road, leading from Parson's bridge to Butte City, to the point where said road crosses Fish creek; thence up Fish creek to the head of Belcher's ditch; thence in a direct line to the forks of Little Pipestone creek, near the site of Parson's old toll gate; thence up the north fork of Little Pipestone creek to its source; and thence in a direct line to the nearest point of the summit of the Rocky mountains to the place of beginning. The boundaries of Jefferson county are hereby changed to conform to the boundaries herein established. The county seat is Butte City.

YELLOWSTONE COUNTY.

Sec. 2789. All that portion of the State lying and situate within the following boundaries shall be known as Yellowstone county, to-wit: Beginning at a point at the confluence of the Yellowstone and Big Horn rivers; thence following the center of the channel of said Yellowstone river, to a point opposite the first divide east of White Beaver creek, in Gallatin county; thence following said divide to the summit of the dividing ridge between the Musselshell and Yellowstone rivers; thence on a straight line north to the southern boundary of Meagher county; thence east along said boundary to the one hundred and ninth meridian of longitude; thence following said meridian to the Musselshell river; thence down the center of the channel of said river to what is known as the Big Bend, to a point where the old Stanley road crosses the Musselshell river; thence on a direct line to the place of beginning.

The county boundaries of the counties of Gallatin and Custer are hereby altered to conform to the county boundaries of Yellowstone county, as established in this section.

Amendment.

All that portion of the Crow Indian reservation lying between the Wyoming line and the Yellowstone river and west of the Big Horn river, in the State of Montana, that may hereafter be segregated and thrown open for settlement shall form a part of Yellowstone county. All that portion of the Crow Indian reservation above described is attached to Yellowstone county for judicial purposes. The county seat is Billings.

FERGUS COUNTY.

Sec. 2790. All that portion of Meagher county lying and situate within the following boundaries shall be known as Fergus county, to-wit: Beginning at the northeast corner of said Meagher county, thence west on the north line of said county to Arrow creek; thence up said Arrow creek to the intersection of what is known as Surprise creek; thence up said Surprise creek to the center of the

divide between the waters of Belt and Judith creeks; thence in a south and southerly direction on the center of the divide between the waters of the Belt, Smith, Musselshell and Judith rivers to the most easterly point of the Belt mountains at the Judith gap; thence due east to the nearest branch of Careless creek; thence down the middle of Careless creek to the Musselshell river; thence down the middle of the Musselshell to the place of beginning.
a new county, to be known as and called Fergus county.

The county boundaries of Meagher and Choteau counties are hereby altered to conform to the county boundaries of Fergus county as established in this section. The county seat is Lewistown.

PARK COUNTY.

Sec. 2791. That portion of the State lying and situated within the following boundaries shall be known as Park county, viz: Beginning at the northwest corner of Yellowstone National Park and running thence one mile west; thence north to the northwest corner of Township 7, south of Range 6, east of the principal meridian; thence northeasterly along the water shed or summit of the Belt range of mountains to the southwest corner of Township 2, south of Range 8, east of the principal merdian; thence due north to the south boundary line of Meagher county; thence east along the south boundary line of Meagher county to the west boundary line of Yellowstone county; thence south along the west boundary line of Yellowstone county to Yellowstone river; thence westerly along the Yellowstone river to the mouth of Big Boulder river; thence southerly and easterly along the west and south boundaries of the Crow Indian reservation to the north boundary of Wyoming, at the southwest corner of said Crow Indian reservation; thence west along the north boundaries of Wyoming and the Yellowstone National Park to the place of beginning.

The county boundaries of the county of Gallatin are hereby altered to conform to the county boundaries of Park county. The county seat is Livingston.

CASCADE COUNTY.

Sec. 2792. All that part of the State embraced within the following boundaries shall be known as Cascade county, to-wit: Beginning in the middle of the main channel of the Missouri river at a point on the northern boundary of Township numbered 22, north of Range 6 east; thence running west along the north boundary of Township 22 north, to the prime meridian of Montana; thence south along said prime meridian to the north boundary of Township 21 north; thence west along the northern boundary of said Township 21 north to the western boundary of said Township 21 north, of Range 2 west; thence south to the middle of the main channel of Sun river; thence westerly up the middle of the main channel of Sun river to the Helena guide meridian; thence south along the Helena guide meridian to its intersection with the middle of the main channel of Dearborn river; thence down the middle of the main channel of Dearborn river to the middle of the main channel of the Missouri river; thence up the middle of the main channel of the Missouri river to its intersection with the north boundary line of Township 14 north; thence east along the north boundary line of Township 14 north to the middle of the main channel of Smith's river; thence down the middle of the main channel of Smith's river to the north boundary of Township 15 north; thence east along the northern boundary of Township 15 north to the southeast corner of Township 16, north of Range 10 east; thence north along the east boundary of Range 10 east to the south boundary line of Choteau county; thence west along the south boundary line of Choteau county to its intersection with the east boundary of Township 19 north of Range 7 east; thence north along the eastern boundary of said Township 19 north, of Range 7 east, to the fifth standard parallel north; thence west along said fifth standard parallel north, to a point in the middle of the main channel of Belt creek; thence in a northwesterly direction, following the main channel of Belt creek to the middle of the main channel of the Missouri river; thence down the main channel of the Missouri river to the place of beginning.

The county boundaries of Meagher, Choteau, Lewis and Clarke, and Fergus counties are hereby altered to conform to the county boundaries of Cascade county. That part of Meagher county east of Range 10 east and north of the north boundary of Township 15 north, shall be added to and made a part of Fergus county, and that part of Fergus county west of Range 11 east and south of the north boundary of Township 15 north, shall be added to and made a part of Meagher county. The county seat is Great Falls.

CHAPTER II.

GENERAL PROVISIONS RELATING TO COUNTIES.

Section 2800. *Surveys to definitely establish unsettled boundaries.*
" 2801. *Reports to Governor on disagreement of commissioners.*
" 2802. *Governor to determine boundary thereupon or to order new surveys.*
" 2803. *Approved surveys to be conclusive.*
" 2804. *Previous surveys validated. Their force as evidence.*

Section 2805. Apportionment of cost of survey. Provision for payment thereof.
" 2806. Collection of old taxes when county is divided or boundary altered.
" 2807. Petitions for change of county seat.
" 2808. Board of County Commissioners to order election.
" 2809. Election, notice of, how held and conducted.
" 2810. Voter to vote for place he prefers.
" 2811. Notice of result.
" 2812. Place chosen to be county seat.
" 2813. Statement of result and notice transmitted.
" 2814. No second election to be held within four years.
" 2815. Subsequent removal of county seat.

Sec. 2800. All common boundaries and common corners of counties not adequately marked by natural objects or lines, or by surveys lawfully made, must be definitely established by surveys jointly made by the county surveyors of all the counties affected thereby, and approved by the Boards of County Commissioners of such counties.

Sec. 2801. If the Boards of County Commissioners do not agree upon and finally approve the survey, each county surveyor must make a report to the Governor, with surveys, maps, notes, and explanations touching disputed points.

Sec. 2802. Upon such reports the Governor must finally determine and establish the common boundaries and corners, if he can collate a satisfactory description therefrom. If the reports are insufficient for such purpose, he must cause surveys to be made, and when approved by him the surveys so made establish such common boundaries and corners.

Sec. 2803. All surveys finally approved under the provisions of this Chapter are conclusive ascertainments of lines and corners included therein.

Sec. 2804. All surveys and maps of boundary lines heretofore legally made and approved are declared valid and are *prima facie* evidence of the establishment of such lines, except so far as they are inconsistent with the provisions of this Code.

Sec. 2805. The cost of making such surveys must be apportioned equally among the counties interested, and the Board of County Commissioners must audit the same, and the amounts must be paid out of the general county fund.

Sec. 2806. When a county is divided or a boundary is altered, all taxes levied before the division was made or boundary changed must be collected by the officers of, and belong to, the county in which the territory was situated before the division or change.

Sec. 2807. Whenever the inhabitants of any county of this State desire to remove the county seat of the county from the place where it is fixed by law or otherwise, to another place, they may present a petition to the Board of County Commissioners of their county praying such removal, the place named in the petition, and that an election be held to determine whether or not such removal must be made.

Sec. 2808. If the petition is signed by qualified electors of the county, equal in number to at least a majority of all the votes cast in the county at the last preceding general election, the board must at the next general election of county officers, submit the question of removal to the electors of the county.

Sec. 2809. Notice of such election, clearly stating the object, must be given, and the election must be held and conducted, and the returns made in all respects in the manner prescribed by law in regard to the submitting of questions to the electors of a locality under the general election law.

Sec. 2810. In voting on the question, each elector must vote for the place in the county which he prefers, by placing opposite the name of the place the mark X.

Sec. 2811. When the returns have been received and compared, and the results ascertained by the board, if a majority of all the legal votes cast by those voting on the proposition are in favor of any particular place, the board must give notice of the result by posting notices thereof in all the election precincts in the county, and by publishing a like notice in a newspaper printed in the county at least once a week for four weeks.

Sec. 2812. In the notice provided for in the next preceding section, the place selected to be the county seat of the county must be so declared from a day specified in the notice not more than ninety days after the election. After the day named in the notice, the place chosen is the county seat of the county.

Sec. 2813. Whenever any election has been held, as provided for in the preceding sections of this Chapter, the statement made by the Board of County Commissioners, showing the result thereof, must be deposited in the office of the county clerk, and whenever the board gives the notice prescribed by Section 2812, they must transmit a certified copy thereof to the Secretary of State.

Sec. 2814. When an election has been held and a majority of the votes are not cast for some other place than that fixed by law as the former county seat, no second election for the removal thereof must be held within four years thereafter.

Sec. 2815. When the county seat of a county has been once removed by a popular vote of the people of the county, it may be again removed from time to time in the manner provided by this Chapter; but no election must be ordered to affect any such subsequent removal, unless a petition praying an election is signed by qualified electors of the county equal in number to at least a majority of all the votes cast at the next preceding general election; nor unless at such election when ordered a majority of all the votes cast are in favor of some other place as the county seat of the county, and such election, when so ordered, shall take place at the first general election held thereafter, nor must two elections to effect such removal be held within four years.

TITLE II.

THE GOVERNMENT OF COUNTIES.

Chapter I. Counties as bodies corporate.
" *II. The Board of County Commissioners.*
" *III. County officers.*
" *IV. Salaries and fees of office.*
" *V. Other county charges.*

CHAPTER I.

COUNTIES AS BODIES CORPORATE.

Section 2820. Every county a body corporate.
" *2821. Powers, how exercised.*
" *2822. Name and designation.*
" *2823. Enumeration of powers.*
" *2824. Restriction on loaning credit.*
" *2825. Restriction on temporary loans.*
" *2826. Limit of indebtedness.*
" *2827. Service of process.*
" *2828. Witnesses and jurors, competency of.*
" *2829. No execution to issue.*
" *2830. Money illegally paid recovered.*

Sec. 2820. Every county is a body politic and corporate and as such has the powers specified in this Code, or in special statutes, and such powers as are necessarily implied from those expressed.

Sec. 2821. Its powers can only be exercised by the Board of County Commissioners, or by agents, and officers acting under their authority, or authority of law.

Sec. 2822. The name of a county designated in the law creating it is its corporate name, and it must be known and designated thereby in all actions and proceedings touching its corporate rights, property and duties, but this provision does not prevent county officers, when authorized by law, from suing in their name of office for the benefit of the county.

Sec. 2823. It has power:

1. To sue and be sued.
2. To purchase and hold lands within its limits.
3. To make such contracts and purchase and hold such personal property as may be necessary to the exercise of its powers.
4. To make such orders for the disposition or use of its property as the interests of its inhabitants require.

5. To levy and collect such taxes for the purposes under its exclusive jurisdiction as are authorized by this Code or by special statutes.

Sec. 2824. No county must ever give or loan its credit in aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association, or corporation, or become a subscriber to, or a shareholder in any company or corporation, or a joint owner with any person, company or corporation.

Sec. 2825. All moneys borrowed by, or on behalf of any county, may be used only for the purpose specified in the law authorizing the loan.

Sec. 2826. No county must become indebted in any manner or for any purpose to an amount including existing indebtedness, in the aggregate exceeding five per centum of the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of such county are void. No county must incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand dollars without the approval of a majority of the electors thereof voting at an election to be provided by law.

Sec. 2827. In all legal proceedings against the county process must be served on the clerk of the Board of County Commissioners; and whenever an action or proceeding is commenced, it is the duty of the clerk forthwith to notify the county attorney thereof, and to lay before the Board of County Commissioners, at its next meeting, all the information he may have in regard to such action or proceeding.

Sec. 2828. On the trial of an action in which the county is interested, the inhabitants of such county are competent jurors, if otherwise competent and qualified according to law.

Sec. 2829. When a judgment is rendered against the county, or against any county officer, in an action prosecuted by or against him in his name of office, when the same is to be paid by the county, no execution must issue upon the judgment; but the same must be paid as other county charges; and when so collected must be paid by the county treasurer to the proper person to whom the same is adjudged, upon the delivery of a proper voucher therefor.

Sec. 2830. Whenever any Board of County Commissioners, without authority of law, orders any money paid as a salary, fees or for other purposes, and such money has been actually paid, or whenever the county clerk has drawn any warrant or warrants in his own favor, or in favor of any other person, without being authorized thereto by the Board of County Commissioners, or by the law, and the same has been paid, the county attorney of such county must institute an action in the name of the county, against such person or persons, to recover the money so paid, and twenty per cent. damage for the use thereof, and no order of the Board of County Commissioners therefor is necessary in order to maintain such action; when the money has not been paid on such orders it is the duty of the county attorney to commence an action in the name of the county, for restraining the payment of the same; and no order of the Board of County Commissioners therefor is necessary to maintain such action.

CHAPTER II.

THE BOARD OF COUNTY COMMISSIONERS.

Article I. Organization and term of board.
" *II. General permanent powers.*
" *III. County finances, bonds and warrants.*
" *IV. Question of raising money to be submitted to vote.*
" *V. Other powers and restrictions.*

ARTICLE I.

ORGANIZATION AND TERMS OF BOARD.

Section 2835. Board, how composed.
" *2836. Qualifications.*
" *2837. Vacancy, how filled.*
" *2838. Bond.*
" *2839. Chairman.*
" *2840. Special meetings, how called.*
" *2841. Meetings and records published.*
" *2842. Clerk.*
" *2843. Duties of clerk.*
" *2844. Duties of board.*
" *2845. Meetings, when.*
" *2846. Other meetings.*
" *2847. Compensation.*

Sec. 2835. Each county must have a Board of County Commissioners, consisting of three members, whose term of office is four years.

Sec. 2836. Each member of a Board of County Commissioners must be an elector of the county he represents.

Sec. 2837. Whenever a vacancy occurs in the Board of County Commissioners, from a failure to elect or otherwise, the district judge or judges in whose district the vacancy occurs must fill the vacancy by appointing for the unexpired term some qualified elector of the county in which the vacancy occurs.

Sec. 2838. Each person elected or appointed to the office of county commissioner must, before he enter upon the duties of his office execute and file with the clerk of the District Court of the county a bond, as provided in Subdivision 11, Section 2941, of this Code. It is the duty of the district judge on the first day in each term or session of court, in open court to examine and inquire into the sufficiency of such bond and order a new bond if found insufficient, and if found sufficient, his approval must be entered in the minutes of the court.

Sec. 2839. The Board of County Commissioners must elect one of its members chairman. The chairman must preside at all meetings of the board, and in case of his absence or inability to act, the members present must, by an order, select one of their number to act as chairman temporarily. Any member of the board may administer oaths to any persons concerning any matter submitted to them or connected with their powers or duties.

Sec. 2840. If at any time after the adjournment of a regular meeting the business of the county requires a meeting of the board, a special meeting may be ordered by a majority of the board. The order must be entered of record, and five days' notice thereof must by the clerk be given to each member not joining in the order. The order must specify the business to be transacted, and none other than that specified must be transacted at such special meeting.

Sec. 2841. All meetings of the board must be public, and the books, records and accounts must be kept at the office of the clerk, open at all times for public inspection free of charge.

Sec. 2842. The county clerk is clerk of the Board of County Commissioners. The records must be signed by the chairman and the clerk.

Sec. 2843. The clerk of the board must:

1. Record all the proceedings of the board.

2. Make full entries of all its resolutions and decisions on all questions concerning the raising of money for, and the allowance of accounts against the county.

3. Record the vote of each member on any question upon which there is a division, or at the request of any member present.

4. Sign all orders made and warrants issued by order of the board for the payment of money, and certify the same to the county treasurer.

5. Record the reports of the county treasurer of the receipts and disbursements of the county.

6. Preserve and file all accounts acted upon by the board.

7. Preserve and file all petitions and applications for franchises, and record the action of the board thereon.

8. Record all orders levying taxes.

9. To designate upon every account allowed by the board, the amount allowed, and he must deliver to any person who may demand it a certified copy of any record in his office, or any account on file therein.

10. As often as a new township is organized, or the boun-

daries of any township are altered, to immediately make out and transmit to the Secretary of State a certified statement of the names and boundaries, and the boundaries of any township altered.

11. Perform all other duties required by law or any rule or order of the board.

Sec. 2844. The Board of County Commissioners must cause to be kept:

1. A "Minute Book," in which must be recorded all orders and decisions made by them and the daily proceedings had at all regular and special meetings.

2. An "Allowance Book," in which must be recorded all orders for the allowance of money from the county treasury, to whom made and on what account, dating, numbering, and indexing the same through each year.

3. A "Road Book," containing all proceedings and adjudications relating to the establishment, maintenance, change and discontinuance of roads, and road districts, or relating to road supervisors and their reports and accounts, as provided in Section 1704, of this Code.

4. A "Franchise Book," containing all franchises granted by them, for what purpose, the length of time, and to whom granted, the amount of bond and license tax required.

5. A "Warrant Book," in which must be entered, in the order of drawing, all warrants drawn on the treasury, with their number and reference to the order on the minute book, with the date, account, on what account, and name of payee.

Sec. 2845. The Board of County Commissioners, except as herein otherwise provided, must meet at the county seat of their respective counties on the first Mondays of December, March, June and September of each year, and may sit not exceeding five days at each session, except the December session, at which they may sit not exceeding eight days; but the board may at any time, by giving at least five days' public notice, hold an extra session of not over two days' duration. In counties of the first class the board may sit not exceeding ten days at each of said sessions.

Sec. 2846. Such other meetings must be held to canvass election returns, equalize taxation, and other purposes as are prescribed in this Code or provided by the board.

Sec. 2847. Each member of the Board of County Commissioners is entitled to eight dollars per day for each day's attendance on the sessions of the board, and ten cents per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence, and no other compensation must be allowed.

ARTICLE II.

GENERAL AND PERMANENT POWERS.

Section 2850. General and permanent powers.

Section 2851. New township, how organized
" *2852. Sheriff to attend meetings when directed.*
" *2853. Commissioners must contract, for what.*

Sec. 2850. The Board of County Commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law:

1. To supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county, charged with assessing, collecting, safe keeping, management, or disbursement of the public revenues; see that they faithfully perform their duties; direct prosecutions for delinquencies; and when necessary, require them to renew their official bonds, to make reports, and to present their books and accounts for inspection.

2. To divide the counties into townships, school, road and other districts required by law; change the same and create others as convenience requires.

3. To establish, abolish, and change election precincts, and to appoint judges of election, canvass all election returns, declare the result, and issue certificates thereof.

4. To lay out, maintain, control, and manage public highways, ferries, and bridges within the county, and levy such tax therefor as required by law.

5. To provide for the care and maintenance of the indigent sick, or the otherwise dependent poor of the county; erect and maintain hospitals therefor, or otherwise provide for the same; and to levy the necessary tax therefor, per capita, not exceeding two dollars, and a tax on property not exceeding one-fifth of one per cent., or either of such levies when both are not required.

6. To provide a farm for the support of the poor of the county, and make regulations for working the same.

7. When there are no necessary county buildings, to provide suitable rooms for county purposes.

8. To purchase, receive by donation, or lease any real or personal property necessary for the use of the county, preserve, take care of, manage and control the same; but no purchase of real property must be made unless the value of the same has been previously estimated by three disinterested citizens of the county, appointed by the district judge for that purpose, and no more than the appraised value must be paid therefor.

9. To cause to be erected and furnished a court house, jail, hospital, and such other public buildings as may be necessary.

10. To sell at public auction at the court house door, after thirty days' previous notice given by publication in a newspaper of the county, or posted in five public places of the county, and convey to the highest bidder for cash any property, real or personal, belonging to the county, paying the proceeds into the county treasury for the use of the county.

11. At the regular meetings of the board to examine and allow the accounts of all officers having the care, management, collection, or disbursement of moneys belonging to the county, or appropriated by law or otherwise for its use and benefit.

12. At the regular meetings of the board to examine, settle and allow all accounts legally chargeable against the county, except salaries of officers, and order warrants to be drawn on the county treasurer therefor, and provide for the issuing of the same.

13. To levy such tax annually on the taxable property of the county for county purposes as may be necessary to defray the current expenses thereof, including salaries otherwise unprovided for, not exceeding sixteen mills on each dollar of the assessed valuation for any one year; and to levy such taxes as are required to be levied by special or local statutes.

14. To equalize the assessments.

15. To direct and control the prosecution and defence of all suits to which the county is a party.

16. To insure the county buildings in the name of and for the benefit of the county.

17. To grant licenses for keeping ferries and such other licenses as are provided by law.

18. To fix the compensation of all county officers, not otherwise in this Code or by general or special law fixed, and provide for the payment of the same.

19. To fill by appointment all vacancies that may occur in county, township or precinct offices, except in the office of county commissioner.

20. To contract for the county printing, and provide books and stationery for county officers.

21. At the adjournment of each session of the board, to cause to be published in a newspaper, or otherwise, a fair statement of all its proceedings, and semi-annually a statement of the financial condition of the county.

22. To represent the county and have the care of county property, and the management of the business and concerns of the county in all cases where no other provision is made by law.

23. To make and enforce such rules for its government, the preservation of order, and the transaction of business as may be necessary.

24. To adopt a seal for the board, a description and impression whereof must be filed by the clerk in the offices of the county clerk and Secretary of State.

25. To perform all other acts and things required by law not in this Title euumerated, or which may be necessary to the full discharge of the duties of the chief executive authority of the county government.

26. To borrow money upon the credit of the county to meet current expenses, if the county revenue is insufficient.

Sec. 2851. The board must not set off or organize any new township unless a petition is presented to the board, signed by at least fifty citizens resident therein.

Sec. 2852. The board has the power to direct the sheriff to attend in person or by deputy all the meetings of the board, to preserve order, and serve notices or citations, as directed by the board. And the board has the same power to punish for contempt, by fine and imprisonment, as is now exercised and allowed by law to district courts to require obedience to their citations and decorum in their meetings.

Sec. 2853. The Board of County Commissioners must contract for:

1. All county printing.
2. All books and stationery.
3. All supplies for county institutions and offices.

And all contracts must be made with the lowest bidder, and after ten days' public notice, that such contracts will be let. The bidding must be by sealed proposals.

ARTICLE III.

COUNTY FINANÇES, BONDS AND WARRANTS.

Section 2860. May issue bonds.
" *2861. Bonds to contain what.*
" *2862. Notice of sale to be published.*
" *2863. Proceeds of sale, what to be done with.*
" *2864. Redeemed bonds, etc., to be cancelled.*
" *2865. County commissioners to print bonds.*
" *2866. Notice of redemption to be published.*
" *2867. Bond fund to be provided.*
" *2868. County treasurer to pay bonds and interest.*
" *2869. Record to be kept.*
" *2870. Warrants to draw interest after presentation.*
" *2871. Lost bond or warrant.*
" *2872. Indemnity to be given.*
" *2873. Duplicate bonds, how given.*
" *2874. What notice imparted.*
" *2875. Duty of county treasurer in reference to lost bonds.*
" *2876. County commissioners to transfer funds.*
" *2877. Contingent funds, how made.*
" *2878. Surplus of contingent fund.*

Sec. 2860. The Board of County Commissioners has authority to issue on the credit of the county, coupon bonds to an amount sufficient to enable it to redeem all legal outstanding bonds, warrants or orders, not exceeding in the aggregate, including outstanding bonded indebtedness, five per centum on the value of the taxable property within such county to be ascertained by the last assessment for the State and county taxes, previous to issuing such bonds. Such bonds are redeemable and payable at such times not longer than twenty years, after the date thereof as the board determines, and the interest which such bonds bear must be fixed by the board not exceeding seven per centum per annum, and be represented by interest coupons, payable semi-annually, on the first days of January and July of each year.

Sec. 2861. The board must fix the denomination of each bond issued under this Article, and prescribe the form thereof; and each bond and all coupons attached thereto must be signed by the chairman of the board and the treasurer of the county; and each bond and coupon must be sealed and countersigned by the county clerk, and each coupon signed by him. Each bond issued must be registered by the county treasurer in a book provided for that purpose, which must show the number and amount of each bond, and when and to whom issued.

Sec. 2862. When the board issues any bonds authorized by this Article it is its duty to sell the same, and give notice by advertisement in some newspaper published in the county, or, if there be no newspaper published in the county, then in any newspaper published in an adjoining county, and also in one or more newspapers published in the city of New York, for a period of not less than thirty days prior to the time said bonds are to be sold; such advertisement must be for sealed proposals, which must state the amount of such bonds for sale, and the person offering the highest price therefor is entitled to receive the amount of such bonds which he offers to buy; but no bonds must be sold for any price less than the par value thereof.

Sec. 2863. The proceeds derived from the sale of bonds authorized to be issued by this Article must be paid into the county treasury, and must be applied to the payment of the legal bonds, warrants, or orders of the county which may be outstanding or unpaid, in the order in which said bonds, warrants, or orders become due. But the board may at any regular meeting exchange any bonds issued under the provisions of this Article for any outstanding county bonds then due, and for any legal county warrants or orders of the county issued prior to a day to be fixed by the board and entered of record in the minutes of their proceedings. The exchange, when made, must be dollar for dollar, with accrued interest thereon. And the board may advertise the privilege to so exchange bonds then due and warrants and orders of the county issued prior to the day so fixed in some newspaper printed and published in the county, or, if there be no newspaper published in the county, then in a newspaper published in an adjoining county, for such period as the board designates.

Sec. 2864. All bonds, coupons, warrants or orders which are called in or redeemed, or paid under the provisions of this Article, and in lieu of which coupon bonds are issued must be cancelled in the same manner in which county warrants are cancelled, and the board must preserve, in a book provided for that purpose, a correct description of such bonds, coupons, warrants, or orders, so cancelled, and the amount of the principal and interest paid to redeem the same, and a copy of such record must be transmitted to the county treasurer.

Sec. 2865. The board must cause suitable bonds, with coupons attached, to be printed or lithographed, and must pay therefor out of any moneys in the treasury of such county not otherwise appropriated.

Sec. 2866. When the board is prepared to redeem any bonds or pay any legal outstanding indebtedness of the county, it must cause a notice to be published in the newspapers mentioned in Section 2862, of this Code, that within thirty days from the date of such notice it will redeem or pay such indebtedness, briefly describing the same; such notice must be sent by mail to the owner or holder of such indebtedness, in case the board has notice or knowledge of the address of such owner or holder; and if at the expiration of the said thirty days the holder, or holders, fail or neglect to present the same for payment, interest thereon must cease; but the county treasurer must at all times thereafter be ready to redeem the same on presentation.

Sec. 2867. The board issuing bonds under the provisions of this Article must, annually, at the time of levying taxes, levy upon the taxable property, in addition to all other taxes, a sum sufficient to pay the interest on all the bonds issued under the provisions of this Article, as the same becomes due, and also a sum sufficient to provide for the redemption of the bonds as the same become due, or are called in for payment, according to the conditions thereof, and such tax when collected must be set apart in a fund known as the "bond fund," and used for no other purpose than the payment of such bonds and interest accruing thereon.

Sec. 2868. The county treasurer must pay the interest upon the bonds authorized to be issued under the provisions of this Article when the same becomes due, on the presentation to him of the proper coupons therefor; and all bonds and coupons which may be paid by the county treasurer must be returned by the treasurer to the county clerk at his next settlement after such payment; and the county clerk must cancel said bonds and coupons in the manner provided by law for the cancellation of county warrants.

Sec. 2869. It is the duty of the county treasurer, upon taking up county orders for the purposes in this Article mentioned, to keep a record of the same, to cancel said orders and to make a report thereof to the board at each regular meeting of the board and to the county clerk.

Sec. 2870. All county warrants after having been presented to the county treasurer and by him indorsed, "Not paid for want of funds in the treasury," from and after the date of presentation and indorsement, draw interest at the rate of seven per cent. per annum.

Sec. 2871. The board is authorized, upon satisfactory proof, that any original bond, warrant or coupon has been lost or destroyed, to issue to the owner or holder of such bond, warrant or coupon, a duplicate thereof, which will take the place in order of registration and payment of such original bond, warrant or coupon, and in all cases supersede and take the place of such original.

Sec. 2872. Before issuing such duplicate bond, warrant or coupon the board must require the person demanding the same to execute and deliver to the treasurer of the county a bond, payable to the county, in double the amount of the bond, warrant or coupon, with at least two good and sufficient sureties, who must be required to justify as in case of attachment, the conditions of such bond being that the principal and sureties therein will indemnify and save harmless the county from all loss, costs or damages by reason of the issuing of the duplicate, and will pay to any person entitled to receive the same, as the lawful holder of the original bond, warrant, or coupon, all moneys received upon such duplicate.

Sec. 2873. The chairman of the board, at the time of issuing any duplicate bond, warrant, or coupon, must write across or upon the face thereof the word "duplicate," in red ink.

Sec. 2874. The word "duplicate" upon any bond, warrant or coupon, imparts notice to all persons that the same is issued subject to the provisions of this Article.

Sec. 2875. It is the duty of the county treasurer, upon the production to him of any original bond, warrant, or coupon, by the lawful owner or holder thereof, to assign by indorsement and to deliver to him, the bond mentioned in Section 2872, and such owner or holder may maintain an action in his own name upon such bond for the recovery of any moneys paid upon such duplicate, but the delivery of such bond does not relieve or exonerate the county from the payment of the amount specified therein upon a demand and refusal of the sureties named in the indemnifying bond to pay the same.

Sec. 2876. The board is authorized to transfer all surplus moneys that may be on hand in any of the several county funds, except the school fund, to such fund or funds as they may deem for the best interest of the county or to appropriate said surplus moneys to the payment of the outstanding indebtedness of the county, but no moneys belonging to the school fund must be taken therefrom except for school purposes.

Sec. 2877. The board must set aside a sum not less than one nor more than twenty-five per cent. of the county fund, annually, which is known as the "contingent fund," to defray incidental expenses of the county; and if a surplus of such contingent fund so set aside remains it must be paid out on registered warrants as other county funds are, at the expiration of each quarterly settlement.

Sec. 2878. If a surplus remains in the contingent fund at the end of the year such surplus must be transferred to the general fund.

ARTICLE IV.

QUESTIONS OF RAISING MONEY TO BE SUBMITTED TO A VOTE.

Section 2885. Commissioners not to borrow money except as provided in this Article.
" *2886. Commissioners to determine amount necessary.*
" *2887. Notice of election to be given.*
" *2888. Ballots what to contain.*
" *2889. When loan may be made.*

Sec. 2885. The Board of County Commissioners must not borrow money for any of the purposes mentioned in this Title, or for any single purpose to an amount exceeding ten thousand dollars without the approval of a majority of the electors of the county, and without first having submitted the question of a loan to a vote of such electors.

Sec. 2886. Whenever it is necessary to submit to a vote of the electors of the county the question of making a loan, the board must first determine the amount necessary to be raised.

Sec. 2887. Notice of the election clearly stating the amount to be raised, and the object of the loan must be given, and the election held and conducted, and the returns made in all respects in the manner prescribed by law in regard to the submission of questions to the electors of a locality under the general election law.

Sec. 2888. There must be written or printed on the ballots the words "for the loan" and "against the loan," and in voting the elector must vote for the proposition he prefers by making an X opposite the proposition.

Sec. 2889. If a majority of the votes cast are in favor of the loan, then the board may make the loan, issuing bonds, or otherwise, as may seem best for the interests of the county.

ARTICLE V.

OTHER POWERS AND RESTRICTIONS.

Section 2895. Provide appliances to hold elections.
" *2896. Certificates issued as board of canvassers.*
" *2897. Power to require attendance of witnesses.*
" *2898. Examination of witnesses.*
" *2899. Officers and witnesses not to be prepaid.*

Section 2900. *County officer not to present certain claims against county.*
" 2901. *All claims must be itemized.*
" 2902. *Account must be filed prior to session.*
" 2903. *Appeals.*
" 2904. *Duty of clerk on appeals.*
" 2905. *What warrants must specify. How presented and paid.*
" 2906. *Annual examination of accounts by board.*
" 2907. *Commissioners not to be interested.*
" 2908. *Claims in favor of county commissioners.*
" 2909. *Annual report of county clerk.*
" 2910. *What may be recovered on the bond.*

Sec. 2895. The Board of County Commissioners must provide all poll lists, poll books, blank returns and certificates, proclamations of elections, and other appropriate and necessary appliances for holding all elections in the county, and allow reasonable charges therefor, and for the transmission and return of the same to the proper officers.

Sec. 2896. Whenever, as canvassers, the Board of County Commissioners declared the result of any election held in the county, certificates must be by the clerk of the board issued to all persons elected to a county office or to a township or district office therein, and such other certificates must be made out and transmitted as required by the Title relative to "Elections."

Sec. 2897. The board may by its chairman or the chairman of any committee, issue subpoenas to compel the attendance of any person and the production of any books or papers relating to the affairs of the county, for the purpose of examination upon any matter within its jurisdiction.

Sec. 2898. A witness is bound to attend, when served, and to answer all questions which he would be bound to answer before any court. Disobedience to the subpoena, or to an order to attend or to testify, may be enforced by the board, and for that purpose the board has all the powers conferred by, and the witness is subject to all the provisions of Chapter II., Title III., Part IV., of the Code of Civil Procedure.

Sec. 2899. Neither the officers serving subpoenas, nor the witnesses subpoenaed to testify in relation to matters of public concern before the Board of County Commissioners are entitled to have their fees prepaid, but officers must serve the subpoenas, and witnesses must attend without their fees being prepaid. The board must allow the witnesses reasonable compensation for their attendance, but in no case to exceed the amount for like services in courts.

Sec. 2900. No county officer must, except for his own service, present any claim, account or demand for allowance against the county, nor in any way advocate the relief asked on the claim or demand made by another. Any citizen and tax payer of the county in which he resides may appear before the board and oppose the allowance of any claim or demand made against the county.

Sec. 2901. No account must be allowed by the board unless the same is made out in separate items, the nature of each item stated, and be verified by affidavit, showing that the account is just and wholly unpaid; and if it is for official services for which no specified fees are fixed by law, the time actually and necessarily devoted to such service must be stated. Every claim against the county must be presented within a year after the last item accrued.

Sec. 2902. No account must be necessarily passed upon by the board, unless made out as prescribed in the preceding section and filed by the clerk prior to the session at which it is asked to be heard.

Sec. 2903. Whenever a claim against a county is disallowed in whole or in part, or when any tax payer of the county is not satisfied with any allowance made by the board, the claimant or such tax payer may appeal from the decision of the board to the District Court for the county, by causing a written notice of appeal to be served on the clerk of the board, within thirty days after the making of the decision or allowance, and executing a bond to the county, with surety to be approved by the clerk of the board, conditioned to prosecute such appeal to effect, and to pay all costs that may be adjudged against the appellant.

Sec. 2904. The clerk of the board, upon an appeal being taken, must immediately give notice thereof to the county attorney, and must make out a return of the proceedings in the matter before the board, with its decision thereon, and file the same together with the bond and all the papers therein, in his possession with the clerk of the District Court; and such appeal must be entered, tried and determined, the same as appeals from justices' courts, and costs are awarded in like manner.

Sec. 2905. Warrants drawn by order of the board on the county treasurer for the current expenses during each year, must specify the liability for which they are drawn, and when they accrued, and must be paid in the order of presentation to the treasurer. If the fund is insufficient to pay any warrant, it must be registered, and thereafter paid in the order of its registration.

Sec. 2906. The board at its annual March session, or oftener if necessary must examine the county warrants returned by the county treasurer, by comparing each warrant with the record of warrants issued in the county clerk's office. The board must cause to be entered on said record, opposite to the entry of each warrant issued, the date when the same was canceled; and make a list of the warrants so canceled; specifying the number, date, amount and the person to whom the same was payable, and enter the same on the minutes of the board. The board must cause to be canceled all county warrants that have remained one year or more uncalled for in the county clerk's office, the same to be canceled in the same manner as other county warrants. At the same time the county treasurer must deliver to the board all warrants or vouchers that he may have in his possession, for moneys disbursed by him as treasurer, and the clerk must receipt for the same.

Sec. 2607. No member of the board must be interested, directly or indirectly, in any property purchased for the use of the county, nor in any purchase or sale of property belonging to the county, nor in any contract made by the board or other person on behalf of the county, for the erection of public buildings, the opening or improvement of roads, or the building of bridges, or the purchasing of supplies, or for any other purpose.

Sec. 2908. All claims against the county presented by members of the board for per diem and mileage, or other service rendered by them, must be verified as other claims, and must state that the service has been actually rendered.

Sec. 2909. The county clerk must annually make out and present to the board at the regular March session, a full and complete statement of the financial condition of the county for the next preceding fiscal year:

1. The indebtedness of the county, funded and floating, the amount of each class of such indebtedness, or any part thereof.

2. The amount of moneys, if any, on hand, as shown by the statement of the previous year.

3. The amount of moneys received for taxes upon real and personal property.

4. The amount of moneys received by him for fines, penalties and forfeitures.

5. The amount of moneys received for licenses.

6. The amount of moneys received from other sources.

7. A concise description of all property owned by the county, with an approximate estimate of the value thereof, and the amount of cash in the county treasurer subject to the payment of such indebtedness.

8. The statement must always show the amount of moneys paid out from the different funds of the counties. The totals of the several amounts of moneys paid out must be deducted from the sums of moneys on hand at the beginning of the previous year, and moneys received during the year by the county treasurer, and a balance must be struck.

9. The statement must also show the assessed valuation of all real and personal property for that year, the rate of taxation, the assessed valuation of real and personal property on which taxes have not been paid, the total delinquent taxes for the year and for each preceding year.

Sec. 2910. Any county commissioner who neglects or refuses to perform any duty imposed on him, without just cause therefor, or who willfully violates any law provided for his government as such officer, or fraudulently or corruptly performs any duty imposed on him, or willfully, fraudulently, or corruptly attempts to perform an act, as commissioner, unauthorized by law, in addition to the penalty provided in the Penal Code, forfeits to the county five hundred dollars for every such act, to be recovered on his official bond, and is further liable on his official bond to any person injured thereby for all damages sustained.

CHAPTER III.

COUNTY OFFICERS.

Article I. General provisions.
" *II. County treasurer.*
" *III. Sheriff.*
" *IV. County clerk.*
" *V. Clerk of the District Court.*
" *VI. County attorney.*
" *VII. County surveyor.*
" *VIII. Coroner.*
" *IX. Public administrator.*
" *X. Assessor, county superintendent of common schools and road supervisors.*
" *XI. Constables, justices of the peace and inferior officers.*

ARTICLE I.

GENERAL PROVISIONS.

Section 2920. General qualifications for county office.
" *2921. Same for district and township offices.*
" *2922. County officers enumerated.*
" *2923. Township officers.*
" *2924. Offices united and consolidated.*
" *2925. County and other officers, when elected and term of office.*
" *2926. Election and terms of county commissioners.*
" *2927. District judges and justices of peace; election and term of office.*
" *2928. County and township officers may generally appoint deputies at discretion.*
" *2929. Mode of making appointments of assistants.*
" *2930. Official mention of principal officer includes deputies.*
" *2931. Vacancies, how filled.*
" *2932. Keep office at county seat.*
" *2933. What offices to be kept open at county seat. District judge and his chambers.*

Section 2934. Civil penalty for misconduct in office attaches to official bond.
" *2935. County officers may administer oaths.*
" *2936. Absence of county officers from State.*
" *2937. Certain officers prohibited from practicing law, etc.*
" *2938. Classification of counties.*
" *2939. Duty of Secretary of State as to classification.*
" *2940. Duty of county commissioners as to classification.*
" *2941. Official bonds classified and amounts therefor.*
" *2942. When amount of bond is not fixed by law.*
" *2943. Other provisions relating to county officers.*
" *2944. County officers must report fees.*
" *2945. Board of County Commissioners must examine reports.*
" *2946. Clerk must report to State officer.*
" *2947. Auditor must make report.*
" *2948. Penalties.*

Sec. 2920. No person is eligible to a county office who at the time of his election is not of the age of twenty-one years, a citizen of the State, and an elector of the county in which the duties of the office are to be exercised or for which he is elected.

Sec. 2921. No person is eligible to a district or township office who is not of the age of twenty-one years, a citizen of the State and an elector of the district or township in which the duties of the office are to be exercised or for which he is elected.

Sec. 2922. The officers of a county are:
A treasurer.
A county clerk.
A clerk of the district court.
A sheriff.
A county attorney.
A surveyor.
A coroner.
A public administrator.
An assessor.
A county superintendent of common schools.
A board of county commissioners.

Sec. 2923. The officers of townships are: Two justices of the peace, two constables, and such other inferior and and subordinate officers as are provided for elsewhere in this Code, or by the Board of County Commissioners.

Sec. 2924. The county clerk is clerk of the Board of County Commissioners, and ex officio recorder. The treasurer is collector of taxes.

Sec. 2925. All elective county and township officers, except county commissioners, must be elected at the general election to be held in the year eighteen hundred and ninety-two, and at the general election to be held every second year thereafter, and must take office on the first Monday of January next succeeding their election, except county treasurer, whose term begins on the first Monday of March next succeeding his election, and hold office for two years.

Sec. 2926. The election and terms of office of county commissioners are provided for in the Constitution.

Sec. 2927. The election and terms of of office of district judges and justices of the peace, are provided for in Title I., of the Code of Civil Procedure.

Sec. 2928. Every county and township officer, except county commissioner and justice of the peace, may appoint as many deputies as may be necessary for the faithful and prompt discharge of the duties of his office.

Sec. 2929. The appointment of deputies, clerks and subordinate officers of counties, districts and townships must be made in writing and filed in the office of the county clerk.

Sec. 2930. Whenever the official name of any principal officer is used in any law conferring power, imposing duties or liabilities, it includes his deputies.

Sec. 2931. All vacancies in county and township offices, except county commissioner, are filled by appointment made by the county commissioners. Appointees hold until the vacancies are filled by election.

Sec. 2932. All county officers must keep their offices at the county seat.

Sec. 2933. The sheriff, the county clerk, the clerk of the District Court, the treasurer, and county attorney must keep their offices open for the transaction of business from nine o'clock A. M. until five o'clock P. M., continuously every day in the year, except holidays, and at any other time when business requires it.

Sec. 2934. Whenever, except in criminal prosecutions, any special penalty, forfeiture, or liability is imposed on any officer for non-performance or mal-performance of official duty, the liability therefor attaches to the official bond of such officer, and to the principal and sureties thereon.

Sec. 2935. Every officer mentioned in Section 2922, and every justice of the peace, may administer and certify oaths.

Sec. 2936. A county officer must, in no case, absent himself from the State for a period of more than sixty days, and for no period without the consent of the Board of County Commissioners, and if he so absents himself he forfeits his office.

Sec. 2937. Sheriffs, clerks, and constables, and their deputies are prohibited from practicing law,or acting as attorneys or counsellors at law, or having as a partner a lawyer, or one who acts as such.

Sec. 2938. For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of official bonds, the counties are classified according to the population as ascertained by the federal census of 1890, as follows:

First Class—All counties containing a population of fourteen thousand or over, belong to and are known as counties of the first class.

Second Class—All counties containing a population of five thousand and under fourteen thousand, belong to and are known as counties of the second class.

Third Class—All counties containing a population under five thousand, belong to and are known as counties of the third class.

Sec. 2939. The Secretary of State must, within ninety days after the adoption of this Code, certify to the county clerk of each of the counties of the State, the population of such county as determined by the United States census, taken in the year eighteen hundred and ninety, and thereafter whenever a new census is taken, must, as soon as the same is officially ascertained by him, certify to each of such clerks the population of such county, as determined by such new census, and on the even numbered years thereafter, the several counties are, by operation of law, classified thereunder; but such classification does not change the government of the county then in existence until the first Monday of January next succeeding, except that the Board of County Commissioners must provide for the election of officers and such other matters as are necessary to put the county government in operation on the said first Monday of January, in accordance with the new classification.

Sec. 2940. Counties created or organized after the adoption of this Code must immediately come under and be governed by its provisions, so far as the same are applicable thereto. When the population of any existing county has been reduced, by reason of the creation of any new county from the territory thereof, below the class and rank first assumed hereunder, it is the duty of the Board of County Commissioners of such county to designate by order the class to which such county has been reduced by reason thereof, and such county is thereafter in such class; but the salary of county officers is in no way affected by reason of such division of the county or order of the Board of County Commissioners for the term for which they were elected and shall have qualified. All newly created counties are for the purpose of fixing salaries and fees of county officers, and fixing the penalty of official bonds in the class of counties having a population of under five thousand and are so classified until classified by a census, as in this Article provided.

Sec. 2941. County officers must execute official bonds corresponding to the class of the county of which they are officers, in the following amounts:

1. Sheriffs, first class, thirty thousand dollars; second class, twenty thousand dollars; third class, ten thousand dollars.

2. County clerk, and as clerk of the Board of County Commissioners and ex officio recorder, first class, twenty-five thousand dollars; second class, fifteen thousand dollars; third class, six thousand dollars.

3. Clerk of the District Court, first class, twenty thousand dollars; second class, ten thousand dollars; third class, five thousand dollars.

4. Treasurers and as collectors of taxes, first class, one hundred and fifty thousand dollars; second class, eighty thousand dollars; third class, sixty thousand dollars.

5. County attorneys, first class, five thousand dollars; second class, three thousand dollars; third class, two thousand dollars.

6. Assessors, first class, fifteen thousand dollars; second class, ten thousand dollars; third class, five thousand dollars.

7. County surveyors, first class, five thousand dollars; second class, five thousand dollars; third class, five thousand dollars.

8. School superintendents, first class, five thousand dollars; second class, three thousand dollars; third class, one thousand dollars.

9. Coroners, first class, three thousand dollars; second class, two thousand dollars; third class, one thousand dollars.

10. Public administrators, first class, ten thousand dollars; second class, five thousand dollars; third class, five thousand dollars.

11. County commissioners, first class, ten thousand dollars; second class, five thousand dollars; third class, three thousand dollars.

Sec. 2942. When the amount of the bond to be given by any county or township officer is not fixed by law, the amount must be fixed by the Board of County Commissioners.

Sec. 2943. Other provisions relating to the different classes of officers are contained in Chapter VII., Title I., Part III., of this Code.

Sec. 2944. It is the duty of all county officers, justices of the peace and constables, to make a report in writing, under oath, to the Board of County Commissioners, on the first Mondays of March, June, September and December, showing in detail all fees, emoluments and compensation received, and moneys disbursed by them in their official capacity during the quarter preceding the making of each report.

Sec. 2945. It is the duty of the board to examine the reports, and if the report of an officer is found correct, the chairman of the board must write on the back of the same the words, "Approved and ordered filed," and sign his name thereto. If any report is found not correct, it must be returned to the officer with a statement of its insufficiency, and the report must be corrected and returned to the board, and then if found correct filed as aforesaid.

Sec. 2946. It is the duty of the clerk of the board, within ten days after the adjournment, of each regular session, to report in tabular form to the State Auditor from the information contained in such reports, the amounts so received and for what purposes received, and moneys disbursed and for what purposes disbursed, which reports must be filed in the office of the State Auditor.

Sec. 2947. The State Auditor must publish such reports in tabular form, in the State Auditor's and State Treasurer's reports. Such reports shall show, in tabular form, the amounts received and moneys disbursed by each officer in each county, and the sources from which said amounts were received.

Sec. 2948. Every officer who fails to comply with or violates any of the provisions of this Article is punishable as provided in Section 185, of the Penal Code.

ARTICLE II.

COUNTY TREASURER.

Section 2950. Duty of county treasurer.
" *2951. Must receipt for money.*
" *2952. Mode of redeeming warrants.*
" *2953. Registry of warrants when no funds.*
" *2954. Notice of redemption of warrants.*
" *2955. What it must state and how published.*
" *2956. Priority in payment of warrants.*
" *2957. Warrants must be registered in name of payee.*
" *2958. Funds reserved sixty days therefor.*
" *2959. Must note the interest paid on warrant.*
" *2960. Settlements, annual and monthly.*
" *2961. Report to board of commissioners each session.*
" *2962. Penalty for not reporting.*
" *2963. When he must sue county attorney.*
" *2964. When he must sue coroner.*
" *2965. What he must do with property.*
" *2966. Money may be demanded in six years.*
" *2967. Must not loan public money or make general deposit.*
" *2968. County commissioners may suspend treasurer.*
" *2969. No commissions allowed.*
" *2970. Books and vouchers subject to inspection by grand jury, etc.*
" *2971. Must permit State examiner and county clerk to examine books.*
" *2972. His duties as collector of taxes.*

Sec. 2950. The county treasurer must—

1. Receive all moneys belonging to the county, and all

other moneys by law directed to be paid to him, safely keep the same, and apply and pay them out, rendering account thereof as required by law.

2. Keep an account of the receipt and expenditure of all such moneys in books provided for the purpose, in which must be entered the amount, the time when, from whom, and on what account all moneys were received by him; the amount, time when, to whom, and on what account all disbursements were made by him.

3. So keep his books that the amount received and paid out on account of separate funds or specific appropriations are exhibited in separate and distinct accounts, and the whole receipts and expenditures shown in one general or cash account.

4. Enter no moneys received for the current year on his account with the county for the past fiscal year until after his annual settlement for the past year has been made with the county clerk.

5. Disburse the county moneys only on county warrants issued by the county clerk, based on orders of the Board of County Commissioners, or as otherwise provided by law.

6. To keep all school moneys in a separate fund, and to keep a separate account of their disbursement to the several school districts which are entitled to receive them, according to the apportionment of the county superintendent of common schools.

7. To notify the county superintendent of the amount of the county school fund in the county treasury subject to apportionment, whenever required, and to inform him of the amount of school moneys belonging to any other fund subject to apportionment.

8. To pay all warrants drawn on county or district school moneys, in accordance with the provisions of law, whenever such warrants are countersigned by the district clerk and properly indorsed by the holders.

9. To make, annually, during the month of September of each year, a financial report for the last preceding year, ending with August 31st, to the county superintendent in such form as may be required by him.

Sec. 2951. When any money is paid to the county treasurer, he must give to the person paying the same a receipt therefor, which must forthwith be deposited with the county clerk, who must charge the treasurer therewith, and give the person paying the same a receipt.

Sec. 2952. When a warrant is presented for payment, if there is money in the treasury for that purpose, he must pay the same, and write on the face thereof "paid," the date of payment, and sign his name thereto.

Sec. 2953. When any warrant is presented to the treasurer for payment, and the same is not paid for want of funds, the treasurer must indorse thereon, "not paid for want of funds," annexing the date of presentation, and sign his name thereto; and from that time until paid the warrant bears seven per cent. per annum interest.

Sec. 2954. When there are sufficient moneys to pay the warrants drawing interest, the treasurer must give notice in some newspaper published in his county, or, if none is published, then by written notice posted upon the court house door, stating therein that he is ready to pay such warrants. From the first publication or posting of such notice, such warrants cease to draw interest.

Sec. 2955. In advertising warrants under the provisions of this section in any newspaper, the treasurer must not publish the warrants in detail, but give notice only that county warrants, presented for payment prior to such a date, stated in the notice, are payable. When a part only of the warrants presented for payment on the same day are payable, the treasurer must designate such payable warrants in the advertisement.

Sec. 2956. Warrants drawn on the treasury and properly attested are entitled to preference as to payment out of moneys in the treasury properly applicable to such warrants according to the priority of time in which they were presented. The time of presenting such warrants must be noted by the treasurer, and upon the receipt of moneys into the treasury not otherwise appropriated, he must set apart the same, or so much thereof as is necessary for the payment of such warrants.

Sec. 2957. The county treasurer must not register any county order or warrant in the name of any person other than the payee thereof, except at the request of such payee, or his agent, assignee or legal representative, whose authority must be produced to the treasurer in writing, and he must not pay any order or warrant except to the payee thereof, or to his agent, assignee or legal representative, whose authority must be in writing and delivered to him, and must be returned with such order or warrant, when paid, to the Board of County Commissioners.

Sec. 2958. If such warrants be not re-presented for payment within sixty days from the time of the notice hereinbefore provided for is given, the fund set aside for the payment of the same must be by the treasurer applied to the payment of unpaid warrants next in order of registry. The Board of County Commissioners may, on application, and presentation of warrants properly indorsed, which have been advertised, pass an order directing the treasurer to pay them out of any money in the treasury not otherwise appropriated.

Sec. 2959. When the treasurer pays any warrant on which any interest is due, he must note on the warrant the amount of interest paid thereon, and enter on his account the amount of such interest distinct from the principal.

Sec. 2960. The treasurer must settle his accounts relating to the collection, care, and disbursement of public revenue, of whatsoever nature and kind, with the county clerk, on the first Monday of each month. For the purpose of making such settlement he must make out a statement, under oath, of the amount of money or other property received prior to the period of such settlement, the sources whence the same was derived, the amount of payments or disbursements, and to whom, with the amount remaining on hand. He must, in such settlements, deposit all warrants redeemed by him and take the county clerk's receipt therefor. He must make a full settlement of all accounts with the county clerk, annually, on the first Monday of January, in the presence of the county commissioners, who have control thereof.

Sec. 2961. Each county treasurer must make a detailed report, at every regular meeting of the Board of County Commissioners of his county, of all moneys received by him and the disbursement thereof, and of all debts due to and from the county, and of all other proceedings in his office, so that the receipts into the treasury and the amount of disbursements, together with the debts due to and from the county may clearly and distinctly appear.

Sec. 2962. If any county treasurer neglects or refuses to settle or report, as required in the preceding section, he forfeits and must pay to the county the sum of five hundred dollars for every such neglect or refusal, and the Board of County Commissioners must institute suits for the recovery thereof.

Sec. 2963. If the county attorney refuses or neglects to account for and pay over money received by him, as required by the fifth subdivision of Section 3061, the county treasurer must bring an action against him for the recovery thereof in the name of the county, and may recover in such action, in addition to the amount so received, fifty per cent. thereon by way of damages.

Sec. 2964. If the coroner, or any justice of the peace acting as coroner, fails to deliver to the treasurer within thirty days after any inquest upon a dead body all money and property found upon such body, unless claimed in the meantime by the public administrator or other legal representative of the decedent, as required by Section 3082, the treasurer must proceed against the coroner, or justice acting as coroner, to recover the same by civil action in the name of the county.

Sec. 2965. The treasurer, upon receiving from the coroner, or justice acting as coroner, money found on a dead body, must place it to the credit of the county. On receiving other property in like manner he must, within thirty days, sell it at public auction upon reasonable public notice, and must in like manner place the proceeds to the credit of the county.

Sec. 2966. If the money in the treasury is demanded within six years by the legal representatives of the decedent, the treasurer must pay it to them after deducting the fees and expenses of the coroner and of the county in relation to the matter; or the same may be so paid at any time thereafter upon the order of the Board of County Commissioners.

Sec. 2967. The county treasurer must keep all moneys belonging to this State in his own possession until disbursed according to law. He must not place the same in the possession of any person, to be used for any purpose; nor must he loan, make profit on, or in any manner use, or permit any person to use the same, except as provided by law; but nothing in this section prohibits him from making special deposits for the safe keeping of public moneys.

Sec. 2968. Whenever any action based upon official misconduct is commenced against any county treasurer, the Board of County Commissioners may, in its discretion, suspend him from office until such suit is determined, and may appoint some person to fill the vacancy.

Sec. 2969. In case of the death of any county treasurer, his legal representatives must deliver up all official moneys, books, accounts, papers, and documents, which come ino their possession. No percentage must be allowed to the treasurer on any money by him received from his predecessor in office, or from the legal representatives of such predecessor.

Sec. 2970. The books, accounts and vouchers of the treasurer are at all times subject to the inspection and examination of the Board of County Commissioners and grand jury.

Sec. 2971. The treasurer must permit the State Examiner and county clerk or the Board of County Commissioners to examine his books and count the money in the treasury whenever any of them may wish to make an examination or counting.

Sec. 2972. His duties as collector of taxes are prescribed in Title IX., Part III., of this Code.

ARTICLE III.

SHERIFF.

Section 2980. "Process" and "Notice" defined.
" *2981. Duties of sheriff.*
" *2982. Must appoint under sheriff.*
" *2983. Duties of under sheriff.*
" *2984. Action against may be prosecuted against executors.*
" *2985. Return by mail to another county.*
" *2986. Return prima facie evidence.*
" *2987. Penalty for delaying return.*
" *2988. Liability for refusing to levy or sell.*
" *2989. Damages for refusing to pay over money.*
" *2990. Liability for permitting an escape.*
" *2991. Liability for a rescue.*
" *2992. No action for escape or rescue after return or re-capture.*

Section 2993. Direction to sheriff must be in writing.
" *2994. When office of sheriff deemed vacant.*
" *2995. When sheriff justified in executing process.*
" *2996. Officer to exhibit process.*
" *2997. Sheriff to act as crier.*
" *2998. Service on sheriff how made.*
" *2999. Coroner to execute process when sheriff is a party.*
" *3000. Elisors to act in cases designated.*
" *3001. Other duties of sheriff.*

Sec. 2980. "Process," as used in this Article includes all writs, warrants, summons, and orders of courts of justice or judicial officers. "Notice" includes all papers and orders (except process) required to be served in any proceeding before any court, board or officer, or when required by law to be served independently of such proceeding.

Sec. 2981. The sheriff must:

1. Preserve the peace.

2. Arrest and take before the nearest magistrate, for examination, all persons who attempt to commit or have committed a public offense.

3. Prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to his knowledge.

4. Attend all courts, except justices' and police courts, at their respective terms or sessions held within his county, and obey their lawful orders and directions.

5. Command the aid of as many male inhabitants of his county as he may think necessary in the execution of these duties.

6. Take charge of and keep the county jail and the prisoners therein.

7. Indorse upon all notices and process the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper, and time of reception.

8. Serve all process or notices in the manner prescribed by law.

9. Certify under his hand upon process or notices the manner and time of service, or, if he fails to make service, the reasons of his failure, and return the same without delay.

Sec. 2982. The sheriff must, as soon as may be after he enters upon the duties of his office, appoint some person under sheriff to hold during the pleasure of the sheriff. Such under sheriff has the same powers and duties as a deputy sheriff.

Sec. 2983. Whenever a vacancy occurs in the office of sheriff the under sheriff must in all things execute the office of sheriff until a sheriff is elected or appointed and duly qualified. Any default, misfeasance or malfeasance of such under sheriff in the meantime as well as before is a breach of the condition of the bond given by the sheriff who appointed him, and also a breach of the condition of the bond given by him to the sheriff.

Sec. 2984. Any action for default or misconduct of any sheriff, his under sheriff, jailer or any of his deputies, may be prosecuted against the executors or administrators of such sheriff.

Sec. 2985. When process or notices are returnable to another county, the sheriff may enclose such process or notice in an envelope, addressed to the officer who sent them, and deposit it in the post office, prepaying postage.

Sec. 2986. The return of the sheriff upon process or notices, is *prima facie* evidence of the facts in such return stated.

Sec. 2987. If the sheriff does not return a notice or process in his possession with the necessary indorsement thereon without delay, he is liable to the party aggrieved for the sum of two hundred dollars and for all damages sustained by him.

Sec. 2988. If the sheriff to whom a writ of execution or attachment is delivered neglects or refuses, after being required by the creditor or his attorney, to levy upon or sell any property of the party charged in the writ which is liable to be levied upon or sold, he is liable to the creditor for the value of such property.

Sec. 2989. If he neglects or refuses to pay over on demand to the person entitled thereto any money which may come into his hands by virtue of his office (after deducting his legal fees), the amount thereof, with twenty-five per cent. damages and interest at the rate of ten per cent. per month from the time of demand, may be recovered by such person.

Sec. 2990. A sheriff who suffers the escape of a person arrested in a civil action, without the consent or connivance of the party in whose behalf the arrest or imprisonment was made, is liable as follows:

1. When the arrest is upon an order to hold to bail or upon a surrender in exoneration of bail before judgment, he is liable to the plaintiff as bail.

2. When the arrest is on an execution or commitment to enforce the payment of money, he is liable for the amount expressed in the execution or commitment.

3. When the arrest is on an execution or commitment other than to enforce the payment of money, he is liable for the actual damages sustained.

4. Upon being sued for damages for an escape or rescue he may introduce evidence in mitigation or exculpation.

Sec. 2991. He is liable for a rescue of a person arrested in a civil action, equally as for an escape.

Sec. 2992. An action cannot be maintained against a sheriff for a rescue, or for an escape of a person arrested upon an execution or commitment, if, after his rescue or escape and before the commencement of the action, the prisoner returns to the jail, or is retaken by the sheriff.

Sec. 2993. No direction or authority by a party or his attorney to a sheriff, in respect to the execution of process or return thereof, or any act or omission relating thereto, is available to discharge or excuse the sheriff from a liability for neglect or misconduct, unless it is contained in a writing signed by the attorney of the party or by the party.

Sec. 2994. When the sheriff is committed under an execution or commitment, for not paying over money received by him by virtue of his office, and remains committed for sixty days, his office is vacant.

Sec. 2995. A sheriff, or other ministerial officer, is justified in the execution of and must execute all process and orders regular on their face and issued by competent authority, whatever may be the defect in the proceedings upon which they were issued.

Sec. 2996. The officer executing such process must then, and at all times subsequent, so long as he retains it, upon request show the same with all papers attached, to any person interested therein.

Sec. 2997. The sheriff in attendance upon court must act as the crier thereof, call the parties and witnesses and all other persons bound to appear before the court, and make proclamation of the opening and adjournment of the court, and of any other matter under its direction.

Sec. 2998. Service of a paper, other than a process, upon the sheriff may be made by delivering it to him or to one of his deputies, or to a person in charge of the office during office hours, or if no such person is there, by leaving it in a conspicuous place in the office.

Sec. 2999. When the sheriff is a party to an action or proceeding the process and orders therein, which it would otherwise be the duty of the sheriff to execute, must be executed by the coroner of the county.

Sec. 3000. Process or orders in an action or proceeding, may be executed by a person residing in the county, designated by the court or a judge thereof, and denominated an elisor, in the following cases:

1. When the sheriff and coroner are both parties.
2. When either of these officers is a party, and the process is against the other, and,
3. When either of these officers is a party and there is a vacancy in the office of the other, or when it appears by affidavit to the satisfaction of the court in which the proceeding is pending, or the judge thereof, that both of these officers are disqualified, or by reason of any bias, prejudice, or other cause, would not act promptly or impartially. When process is delivered to an elisor, he must execute and return it in the same manner as the sheriff is required to execute similar process. The court or judge may at any time on its own motion appoint an elisor.

Sec. 3001. The sheriff must perform such other duties as are required of him by law.

ARTICLE IV.

COUNTY CLERK.

Section 3007. County clerk as ex officio recorder to procure record books.
" *3008. What to be recorded.*
" *3009. Indexes to be kept.*
" *3010. Same.*
" *3011. To record decrees of partition.*
" *3012. Filing or copy to impart notice.*
" *3013. Must keep a map book.*
" *3014. May keep two or more indexes in the same volume.*
" *3015. Duty on receipt of instrument to be recorded.*
" *3016. Recorded instrument to be indorsed.*
" *3017. To make searches.*
" *3018. Liable for neglect of certain duties.*
" *3019. Fees to be prepaid.*
" *3020. Records open to inspection.*
" *3021. Duties of the county clerk.*
" *3022. Warrants to be numbered.*
" *3023. Examine the books of the treasurer, when.*
" *3024. To count money in treasury and make statement.*
" *3025. Statement to be filed and posted.*
" *3026. Quarterly settlements, when to be made and what to contain.*
" *3027. Other duties.*

Sec. 3007. The county clerk as ex officio recorder must procure such books for records as the business of his office requires, but orders for the same must first be obtained from the Board of County Commissioners. He has the custody and must keep all the books, records, maps and papers deposited in his office.

Sec. 3008. He must, upon the payment of his fees for the same, record, separately, in large and well bound separate books, in a fair hand:

1. Deeds, grants, transfers, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages,

powers of attorney to convey real estate, and leases which have been acknowledged or proved.

2. Certificates of marriage and marriage contracts, and births and deaths.

3. Wills devising real estate admitted to probate.

4. Official bonds.

5. Transcripts of judgments which by law are made liens upon real estate.

6. Instruments describing or relating to the separate property of married women and sole trader judgments.

7. All orders and decrees made by the District Court in probate matters affecting real estate which are required to be recorded.

8. Notices of pre-emption claims.

9. Notices and declarations of water rights.

10. Assignments for the benefit of creditors.

11. Affidavits of annual work done on mining claims.

12. Notices of mining location and declaratory statement.

13. Estrays and lost property.

14. A book containing appraisement of State lands.

15. Such other writings as are required or permitted by law to be recorded.

Sec. 3009. Every county clerk as ex officio recorder must keep:

1. An index of deeds, grants and transfers, and contracts, to sell or convey real estate, labeled "Grantors," each page divided into four columns, headed respectively: "Names of of grantors," "Names of grantees," "Date of deeds, grants, transfers or contracts," and "Where recorded."

2. An index of deeds labeled "Grantees," each page divided into four columns, headed respectively, "Names of grantees," "Names of grantors," "Date of deeds, grants, transfers or contracts," and "Where recorded."

3. Two indexes of mortgages labeled respectively: "Mortgages of real property," "Mortgages of personal property," with the pages thereof divided into five columns headed respectively: "Names of mortgagors," "Names of mortgagees," "Dates of mortgages," "Where recorded," in case of a mortgage ot real property, and "When filed," in case of a mortgage on personal property," "When discharged."

4. Two indexes of mortgages labeled respectively: "Mortgages of real property," "Mortgages of personal property," with the pages thereof divided into five columns headed respectively: "Names of mortgagees," "Names of mortgagors," "Date of mortgage," "Where recorded," in case of a mortgage on property, and "When filed," in case of a mortgage on personal property, "When discharged."

5. Two indexes of releases of mortgages, labeled respectively: "Releases of mortgages of real property—mortgagors," "Releases of mortgages of personal property—mortgagors,"

with the pages thereof divided into six columns, headed respectively: "Parties releasing," "To whom releases are given," "Date of releases," "Where releases are filed or recorded," "Date of mortgages released," "Where mortgages released are recorded," or if on personal property, "When filed."

6. Two indexes of releases of mortgages labeled respectively: "Releases of mortgages of real property—mortgagees," "Releases of mortgages of personal property—mortgagees," with the pages thereof divided into six columns, headed respectively: "Parties whose mortgages are released," "Parties releasing," "Date of release," "Where recorded," or "Where filed," "Date of mortgages released," "Where mortgages released are recorded," or if personal property "When filed."

7. An index of powers of attorney labeled "Powers of attorney," each page divided into five columns headed respectively: "Names of parties executing powers," "To whom powers are executed," "Date of powers," Date of recording," "Where powers are recorded."

8. An index of leases labeled "Leases," each page divided into four columns, headed respectively: "Names of lessors," "Names of lessees," "Date of lessees," "When and where recorded."

9. An index of leases labeled "Lessees," each page divided into four columns, headed respectively: "Names of lessees," "Names of lessors," "Date of leases," "When and where recorded."

10. An index of marriage certificates labeled "Marriage certificate—men," each page divided into six columns, headed respectively; "Men married," "To whom married," "When married," "By whom married," "Where married," "Where certificates are recorded."

11. An index of marriage certificates, labeled "Marriage certificates—women," each page divided into six columns, headed respectively: "Women married" (and under this head placing the family names of the women), "To whom married," "When married," "By whom married," "Where married," "Where certificates are recorded."

12. An index of assignments of mortgages and leases, labeled "Assignments of mortgages and leases—assignors," each page divided into five columns, headed respectively: "Assignors," "Assignees," "Instruments assigned," "Date of assignment," "When and where recorded."

13. An index of assignments of mortgages and leases labeled "Assignments of mortgages and leases, assignees," each page divided into five columns, headed respectively: "Assignees," "Assignors," "Instruments," "Date of assignments," "When and where recorded."

14. An index of wills labeled "Wills," each page divided into four columns, headed respectively: "Names of testators,"

"Date of wills," "Date of probate," "When and where recorded."

15. An index of official bonds, labeled "Official bonds," each page divided into five columns, headed respectively: "Names of officers," "Names of offices," "Date of bonds," "Amount of bonds," "When and where recorded."

16. An index of notices of mechanics' liens, labeled "Mechanics' liens," each page divided into three columns, headed respectively: "Parties claiming liens," "Against whom claimed," "Notices when filed."

17. An index to transcripts of judgments, labeled "Transcripts of judgments," each page divided into seven columns, headed respectively: "Judgment debtors," "Judgment creditors," "Amount of judgments," "Where recovered," "When recovered," "When transcript filed," "When judgment satisfied."

18. An index of attachments, labeled "Attachments," each page divided into six columns, headed respectively: "Parties against whom attachments are issued," "Parties issuing attachments," "Notices of attachments," "When filed," "When attachments discharged."

19. An index of notices of the pendency of actions, labeled "Notices of actions," each page divided into three columns, headed respectively, "Parties to actions," "Notices when recorded," "When filed."

20. An index of certificates of sale of real estate sold under execution or under orders made in any judicial proceeding, labeled "Certificates of sale," each page divided into four columns, headed respectively, "Plaintiff," "Defendant," "Purchaser at sale," "Date of sale."

21. An index of the separate property of married women and sole trader judgments, labeled "Separate property of married women and sole traders," each page divided into five columns, headed respectively: "Names of married women," "Names of their husbands," "Nature of instruments recorded," "When recorded," "Where recorded."

22. An index of pre-emption claims, labeled "Pre-emption claims," each page divided into five columns headed respectively: "Claimants," "Notices," "When received," "Date of notices," "When and where recorded."

23. An index to affidavits for annual work done on mining claims, showing name of the affiant, the name of the claim, where situated, and the year when the work was done, labeled "Annual work on mining claims."

24. An index of mining claims and declaratory statements, labeled "Notices of location of mining claims and declaratory statements," each page divided into four columns, headed respectively: "Locators," "Name of claim," "Notice, when filed," "Where recorded."

25. An index to the register of births and deaths.

26. An index to notices and declarations of water rights.

27. An index to the "Estray and lost property book."

28. An index to the "Land appraisement book," containing the legal subdivisions of the land appraised.

29. An index to the record of assignments for the benefit of creditors, containing names of assignor and assignee, date and where recorded, and inventory when filed.

30. A miscellaneous index in which must be indexed papers not hereinbefore stated.

Sec. 3010. He must keep an index to the book of maps or plats, which must contain the name of the proprietor of the town, village or addition platted, and a general description of the same.

Sec. 3011. He must file and record with the record of deeds, grants and transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property, any part of which is situate in the county.

Sec. 3012. Every such certified copy of a judgment of partition or any other judgment from the time of filing the same for record imparts notice to all persons of the contents thereof, and subsequent purchasers, mortgagees and lien holders purchase and take with like notice and effect as if such copy of judgment was a duly recorded deed, grant or transfer.

Sec. 3013. He must keep a well bound book, which must contain maps of towns, villages or additions to the same within his county, together with the description, acknowledgement or other writing thereon.

Sec. 3014. He may keep in the same volume any two or more of the indexes mentioned in Section 3009, but the several indexes must be kept distinct from each other, and the volumes distinctly marked on the outside in such way as to show all the indexes kept therein. The names of the parties in the first column of the several indexes must be arranged in alphabetical order, and when a conveyance is executed by a sheriff the name of the sheriff and the party charged in the execution must both be inserted in the index; and when an instrument is recorded to which an executor, administrator, or trustee is a party the name of such executor, administrator, or trustee, together with the name of the testator or intestate, or party for whom the trust is held, must be inserted in the index.

Sec. 3015. When any instrument, paper or notice authorized by law to be recorded, is deposited in the office of the county clerk as ex officio recorder for record, he must indorse upon the same the time it was received, noting the year, month, day, hour and minute of its reception, and must record the same without delay, together with the acknowledgement, proofs and certificates, written upon or annexed to the same, with the plats, surveys, schedule and other papers thereto annexed, in the order and as of the time when the same was received for record, and must note at the foot of the record the exact time of its reception, and the name of the person at whose request it was recorded.

Sec. 3016. He must also indorse upon each instrument, paper or notice, the time when and the book and pages in which it is recorded, and must thereafter deliver it, upon request, to the party leaving the same for record, or to his order.

Sec. 3017. He must, upon the application of any person, and upon the payment or tender of the fees therefor, make searches for conveyances, mortgages, and all other instruments, papers or notices recorded or filed in his office, and furnish a certificate thereof, stating the names of the parties to such instruments, papers and notices, the dates thereof, the year, month, day, hour and minute they were recorded or filed, the extent to which they purport to affect the property to which they relate, and the book and pages where they are recorded.

Sec. 3018. If any county clerk as ex officio recorder to whom an instrument, proved or acknowledged according to law, or any paper or notice which may be by law recorded, is delivered for record:

1. Neglects or refuses to record such instrument, paper, or notice within reasonable time after receiving the same; or,

2. Records any instruments, papers, or notices untruly, or in any other manner than as hereinbefore directed; or,

3. Neglects or refuses to keep in his office such indexes as are required by this Article, or to make the proper entries therein; or,

4. Neglects or refuses to make the searches and to give the certificate required by this Article; or if such searches or certificate are incomplete and defective in any important particular affecting the property in respect to which the search is requested; or,

5. Alters, changes or obliterates any records deposited in his office, or inserts any new matter therein, he is liable to the party aggrieved for three times the amount of the damages which may be occasioned thereby, and is punishable as provided in the Penal Code.

Sec. 3019. He is not bound to record any instrument, or file any paper or notice, or furnish any copies, or to render any service connected with his office, until the fee for the same, as prescribed by law, is, if demanded, paid or tendered.

Sec. 3020. All books or records, maps, charts, surveys and other papers on file in his office, must, during office hours, be open for the inspection of any person who may desire to inspect them, and may be inspected without charge; and he must arrange the books of record and indexes in his office in such suitable places as to facilitate their inspection.

Sec. 3021. The county clerk must:

1. Take charge of, and safely keep or dispose of, according to law, all books, papers, and records, which may be filed or deposited in his office.

2. Act as clerk of the Board of County Commissioners:

3. Draw warrants on the county treasurer in favor of all persons entitled thereto in payment of all claims and demands chargeable against the county which have been legally examined, allowed, and ordered paid by the Board of County Commissioners; also, for all debts and demands against the county when the amounts are fixed by law, and which are not directed to be audited by some other person or tribunal. All warrants must distinctly specify the liability for which they are drawn, and when it accrued.

4. He must keep accounts current with the treasurer, and when any person deposits with the county clerk, any receipt given by the treasurer for any money paid into the treasury, the county clerk must file such receipt and charge the treasurer with the amount thereof.

Sec 3022. All warrants issued by the county clerk during each year, commencing with the first Monday in January, must be numbered consecutively, and the number, date, and amount of each, and the name of the person to whom payable, and the purpose for which drawn, must be stated thereon, and they must, at the time they are issued, be registered by him.

Sec. 3023. The county clerk must, between the first and tenth days of each month, examine the books of the treasurer and see that the same have been correctly kept.

Sec. 3024. The chairman of the Board of County Commissioners and the county clerk must, at least once in each month, count the money in the county treasury, and make and verify, in duplicate, statements showing:

1. The amount of money that ought to be in the treasury.

2. The amount of money actually therein.

Sec. 3025. They must file one of the statements in the office of the county clerk, and post and maintain the other in said office for at least a month thereafter.

Sec. 3026. The county clerk and treasurer of each county must, on the first Monday in March, June; September and December, make a joint statement to the Board of County Commissioners, showing the whole amount of collections (stating particularly the source of each portion of the revenue) from all sources paid into the county treasury, the funds among which the same was distributed, and the amount to each; the total amount of warrants drawn and paid, and on what fund; the total amount of warrants drawn and unpaid, and accounts or claims audited, or allowed and unpaid, and the fund out of which they are to be paid, and generally make a full and specific showing of the financial condition of the county.

Sec. 3027. The county clerk must keep such other records and books, and perform such other duties as are prescribed by law.

ARTICLE V.

CLERK OF THE DISTRICT COURT.

Section 3050. Duties and records to be kept.
" *3051. Other duties.*

Sec. 3050. The clerk of the District Court, in addition to the duties prescribed by the Code of Civil Procedure and the Penal Code, must:

1. Take charge of and safely keep or dispose of, according to law, all books, papers, and records which may be filed or deposited in his office.

2. Act as clerk of the District Court, and attend each term or session thereof and upon the judges at chambers when required.

3. Issue all process and notices required to be issued; enter all orders, judgments and decrees proper to be entered; keep in each court a register of actions, as provided in the Code of Civil Procedure, which must also state the names of the attorneys and all fees charged in each action, and a list of all the fees charged.

4. Keep for the District Court, in separate volumes, an index of all suits, labeled "General Index—Plaintiffs," each page of which must be divided into seven columns, under their respective heads, alphabetically arranged as follows: "Number of Suit," "Plaintiffs," "Defendants," "Date of judgment," "Number of judgment," "Page of entry of judgment in Judgment Book," "Page of Minute Book of District Court;" also, an index labeled "General Index—Defendants," each page of which must be divided into seven columns under their respective heads, alphabetically arranged as follows: "Number of suit," "Defendants," "Plaintiffs," "Date of judgment," "Number of judgment," "Page of entry of judgment in Judgment Book," "Page in Minute Book of District Court."

5. Keep a minute book, which must contain the daily proceedings of court, which may be signed by the clerk, which minute book must be indexed in the names of both defendant and plaintiff.

6. Keep a book called "Record of Probate Proceedings," which must contain all the orders and proceedings of the District Court sitting in probate matters, as prescribed in Part III., Title XI., of the Code of Civil Procedure, which index must be indexed in the name of the deceased person, the executor or administrator, the guardian or ward.

7. Keep a book called the "Probate Record Book," in which must be recorded all wills, bonds, letters of administra-

tion, letters testamentary and other papers, as prescribed in Part III., Title XI., of the Code of Civil Procedure, which record must be indexed in like manner as the "Record of Probate Proceedings."

8. Keep two books, in one of which must be entered in alphabetical order the names of all persons who from the organizations of the court have declared, or who may hereafter declare their intention to become citizens of the Unifed States, and the date of such declaration, which book must be labeled "Declaration of Intention to Become Citizens of the United States," and in the other of which must be entered in alphabetical order the names of all persons who have been or may be hereafter admitted citizens of the United States by the court of which he is clerk, which book must be labeled "Naturalization—Final Papers," and enter in a separate column, opposite each name, the country of which such person was before a citizen or subject, the date of his admission, and the page of the minute book or book of record containing the order admitting him a citizen.

9. Keep a book, called "Register of Criminal Actions," in which must be entered the title and number of the action, with a memorandum of every paper filed, order or proceeding had therein, with the date thereof, and the name of every witness, number of days in attendance and his legal fees, and a proper index to the same.

10. Keep a book, called a "Register of Probate and Guardianship Proceedings," in which must be entered the name of the estate, the register number, with a memorandum of every paper filed, order or proceeding had therein, with the date thereof, and the fees charged.

11. Keep an index book of persons sent to the insane asylum, as provided in Section 1597, of this Code.

12. Keep a fee book, in which must be shown in an itemized form all fees that he has received for any service rendered as such clerk.

13. Keep a book, called a "Book of Jurors' Certificates," in which must be contained the blank certificates and stubs to be filled, as provided in this Code.

14. Keep a "Witness Book," in which must be contained blank certificates and stubs to be filled, as provided in this Code.

15. Keep a record of the attendance of all jurors, and of witnesses in criminal actions, and compute the mileage of each.

Sec. 3051. He must keep such other records and perform such other duties as are prescribed by law.

ARTICLE VI.

COUNTY ATTOTNEY.

Section 3061. Duties of county attorney.
" 3062. Legal advisor of Board of County Commissioners.
" 3063. Authority to sue to recover money illegally paid.
" 3064. Must not advocate claims against his own county.
" 3065. Other duties.

Sec. 3061. The county attorney is the public prosecutor, and must:

1. Attend the District Court and conduct on behalf of the State all prosecutions for public offenses.

2. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the District Court, must attend upon the magistrates in cases of arrest when required by them, and attend before and give advice to the grand jury whenever cases are presented to them for their consideration.

3. Draw all indictments and informations, defend all suits brought against the State or his county, prosecute all recognizances forfeited in the courts of record and all actions for the recovery of debts, fines, penalties and forfeitures accruing to the State or his county.

4. Deliver receipts for money or property received in his official capacity, and file duplicates thereof with the county treasurer.

5. On the first Mondays of January, April, July and October, in each year, file with the county clerk an account, verified by his oath, of all money received by him in his official capacity during the preceding three months, and at the same time pay it over to the county treasurer.

6. Give when required, and without fee, his opinion in writing, to the county, district and township officers, on matters relating to the duties of their respective offices.

7. Keep a register of all official business, in which must be entered a note of every action, whether criminal or civil, prosecuted officially, and of the proceedings therein.

Sec. 3062. The county attorney is the legal advisor of the Board of County Commissioners. He must attend their meetings when required, and must attend and oppose all claims and accounts against the county which are unjust or illegal.

Sec. 3063. If the Board of County Commissioners, without authority of law, order any money paid as a salary, fees or for any other purposes, and such money has been actually paid; or if any other county officer has drawn any warrant or warrants in his own favor, or in favor of any other person, without being authorized thereto by the Board of County Commissioners or by law, and the same has been paid, the county attorney is empowered, and it is his duty to institute an action in the name of the county against such person or persons to recover the money so paid, and twenty-five per cent damages for the use thereof; and no order of the Board of County Commissioners therefor is necessary to maintain such suit; but when the money has not been paid on such order or warrants, it is the duty of the county attorney upon receiving notice thereof, to commence an action in the name of the county for restraining the payment of the same, and no order of the Board of County Commissioners is necessary to maintain such action.

Sec. 3064. The county attorney, except for his own services, must not present any claim, account, or other demand for allowance against the county, nor in any way advocate the relief asked on the claim or demand made by another.

Sec. 3065. The county attorney must perform such other duties as are prescribed by law.

ARTICLE VII.

COUNTY SURVEYOR.

Section 3070. County surveyor to make surveys, keep record of them, furnish copies, etc.
" *3071. Surveys of lands in two counties.*
" *3072. Order for survey where title to lands in two counties disputed.*
" *3073. Courses to be run by true meridian: variation noted.*
" *3074. Surveyor to employ assistants, when.*
" *3075. Disinterested person, when to act in place of county surveyor.*

Sec. 3070. The county surveyor must make any survey that may be required by order of court, or upon application of any person, keep a correct and fair record of all surveys made by him, number them in the order made, progressively, and preserve a copy of the field notes and calculations of each survey, indorse thereon its proper number, a copy of which, and a fair and accurate plat, together with the certificate of survey, must be furnished by him to any person upon payment of the fees allowed by law.

Sec. 3071. Any person owning or claiming lands which are divided by county lines, and wishing to have the same surveyed, may apply to the surveyor of any county in which any part of such land is situated, and on such application being made the county surveyor must make the survey, which is as valid as though the lands were situated entirely within the county.

Sec. 3072. When land, the title to which is in dispute before any court, is divided by a county line, the court making an order of survey may direct the order to the surveyor of any county in which any part of the land is situated.

Sec. 3073. In all surveys the courses must be expressed according to the true meridian, and the variation of the magnetic meridian from the true meridian must be expressed on the plat, with the date of the survey.

Sec. 3074. If a party for whom the county survey is made does not furnish the chainmen and markers, the surveyor may employ the necessary chainmen and markers and receive the reasonable hire of all assistance necessarily employed.

Sec. 3075. When the county surveyor is interested in any land, the title to which is in dispute and a survey thereof is necessary, the court must direct the survey to be made by some disinterested person, and the person so appointed is for the purpose authorized to administer and certify oaths. He must return such survey, verified by his affidavit annexed thereto, and receive for his services the same fees as the county surveyor would be entitled to for similar services.

ARTICLE VIII.

CORONER.

Section 3080. Coroner to hold inquest.
" *3081. Coroner to bury body, when; expense of interment.*
" *3082. To deliver to the county treasurer, etc., property found on body.*
" *3083. Statement before allowing accounts of coroner.*
" *3084. Justice of peace to act as coroner in certain cases.*
" *3085. Coroner to discharge duties of sheriff, when.*
" *3086. Must keep register.*

Sec. 3080. The coroner must hold inquests, as provided in Chapter II., Title XII., Part II., of the Penal Code.

Sec. 3081. When an inquest is held by the coroner, and no other person takes charge of the body of the deceased, he must cause it to be decently interred; and if there is not sufficient property belonging to the estate of the deceased to pay the necessary expenses of burial, the expenses are a legal charge against the county.

Sec. 3082. The coroner must, within thirty days after an inquest on a dead body, deliver to the county treasurer or the legal representatives of the deceased any money or other property found upon the dead body.

Sec. 3083. Before allowing the accounts of the coroner the Board of County Commissioners must require him to file with the clerk of the board a statement in writing, verified by his affidavit, showing:

1. The amount of money or other property belonging to the estate of the deceased person which has come into his possession since his last statement.

2. The disposition made of such property.

Sec. 3084. If the office of coroner is vacant, or he is absent or unable to attend, the duties of his office may be discharged by any justice of the peace of the county, with the like authority and subject to the same obligations and penalties as the coroner.

Sec. 3085. In the cases specified in Article III., of this Chapter, the coroner must discharge the duties of sheriff.

Sec. 3086. It is the duty of the coroner of each county to keep an official register, to be labeled "Coroner's Register," in which he must enter the date of holding all inquests, the name of the deceased, when known, and when not, such description of the deceased as may be sufficient for identification; property found on the person of the deceased, if any; what disposition of the same was made by the coroner; the cause of the death, when known, and any other information which may pertain to the identity of the deceased.

ARTICLE IX.

PUBLIC ADMINISTRATOR.

Section 3090. Duty of public administrator.
“ *3091. Must procure letters of administration.*
“ *3092. Duty of persons in whose house any stranger dies.*
“ *3093. Must return inventory. How to administer estates.*
“ *3094. When to deliver up estates.*
“ *3095. Civil officer to notify public administrator of waste.*
“ *3096. Actions by.*
“ *3097. Order to examine party charged with embezzlement.*
“ *3098. Punishment for refusing to attend.*
“ *3099. Order of judge to account.*
“ *3100. Every six months to make and publish condition of estates.*
“ *3101. Estate moneys, escheats, etc.*
“ *3102. Must not be interested or have partner.*
“ *3103. When to settle with clerk of District Court.*
“ *3104. Proceedings against for failure to pay over money.*
“ *3105. Fees, how paid.*

Section 3106. May administer oaths.
" 3107. Court or judge may at any time require report and additional bonds.
" 3108. Provisions in Code of Civil Procedure applicable.
" 3109. Must keep register.

Sec. 3090. Every public administrator, duly elected, commissioned and qualified, must take charge of the estates of persons dying within his county, as follows:

1. Of the estates of decedents for which no administrators are appointed, and which, in consequence thereof, are being wasted, uncared for or lost.

2. Of the estates of decedents who have no known heirs and no creditors.

3. Of the estates ordered into his hands by the court; and,

4. Of the estates upon which letters of administration have been issued to him by the court.

Sec. 3091. Whenever a public administrator takes charge of an estate, under order of the court, he must, with all convenient dispatch, procure letters of administration thereon, in like manner and on like proceedings as letters of administration are issued to other persons. His official bond and oath are in lieu of the administrator's bond and oath, but when real estate is ordered to be sold, another bond must be required by the court.

Sec. 3092. Whenever a stranger, or person without known heirs, dies intestate in the house or premises of another, the possessor of such premises, or any one knowing the facts, must give immediate notice thereof to the public administrator of the county; in default of so doing he is liable for any damage that may be sustained thereby, to be recovered by the public administrator or any person interested.

Sec. 3093. The public administrator must make out and return an inventory of all estates taken into his possession, administer and account for the same according to the provisions of this Article, subject to the control and directions of the court.

Sec. 3094. If at any time letters testamentary or of administration are regularly granted to any other person on the estate of which the public administrator has charge, he must, under order of the court, account for, pay and deliver to the executor or administrator thus appointed, all the money, property, papers, and estate of every kind in his possession or under his control.

Sec. 3095. All civil officers must inform the public administrator of all property known to them, belonging to a decedent, which is liable to loss, injury or waste, and which, by reason thereof, ought to be in the possession of the public administrator.

Sec. 3096. The public administrator must institute all actions and prosecutions necessary to recover the property, debts, papers, or other estate of the decedent.

Sec. 3097. When the public administrator complains to the District Court or a judge thereof, on oath, that any person has concealed, embezzled or disposed of, or has in his possession any money, goods, property, or effects, to the possession of which such administrator is entitled in his official capacity, the court or judge may cite such person to appear, and may examine him on oath, touching the matter of such complaint.

Sec. 3098. All such interrogatories and answers must be reduced to writing and signed by the party examined, and filed in the court. If the person so cited refuses to appear and submit to such examination, or to answer such interrogatories as may be put to him touching the matter of such complaint, the court or judge may commit him to the county jail, there to remain in close custody, until he submits to the order of the court or judge.

Sec. 3099. The court or judge may at any time order the public administrator to account for and deliver all the money of an estate in his hands to the heirs, or to the executors or administrators regularly appointed.

Sec. 3100. The public administrator must, once in every six months, make to the District Court or a judge thereof, under oath, a return of all estates of decedents which have come into his hands, the value of the same, the money which has come into his hands from each estate, and what he has done with it, and the amount of his fees and expenses incurred, and the balance, if any, remaining in his hands; publish the same once in each week for six weeks in some newspaper published in the county, or if there is none, then post the same, legibly written or printed, in the office of the clerk of the districtcourt of the county.

Sec. 3101. It is the duty of every public administrator, as soon as he receives the same, to deposit with the county treasurer of the county in which probate proceedings are pending, all moneys of the estate not required for the current expenses of the administration, and such moneys may be drawn upon the order of the executor or administrator, countersigned by a district judge, when required for the purposes of administration. It is the duty of the county treasurer to receive and safely keep all such moneys, and pay them out upon the order of the executor or administrator, when countersigned by a district judge, and not otherwise, and keep an account with such estate of all moneys received and paid to him; and for the safe keeping and payment of all such moneys as herein provided the said treasurer and his sureties are liable upon his official bond. The moneys thus deposited may, upon order of the court or judge be invested, pending the proceedings, in securities of the United States, or of this State, when such investment is for the best interests of the estate. After the final settlement of any estate, if there be no heirs, or other claimants thereof, the county treasurer must pay into the State treasury all moneys and effects in his hands belonging to the estate, upon order of the court or judge; and if any such moneys and effects escheat to the State, they must be disposed of as other escheated estates.

Sec. 3102. The public administrator must not be interested in the expenditures of any kind, made on account of any estate he administers; nor must he be associated, in business or otherwise, with any one who is so interested, and he must attach to his report and publication, made in accordance with the preceding section, his affidavit to that effect.

Sec. 3103. The public administrator is required to account under oath, and to settle and adjust his accounts, relating to the care and disbursement of money or property belonging to estates in his hands, with the clerk of the District Court, on the first Monday of each month; and he must pay to the county treasurer any money remaining in his hands of an estate unclaimed, as provided in Sections 1807 to 1810, of the Code of Civil Procedure, both inclusive.

Sec. 3104. When it appears from the returns made in pursuance of the foregoing sections that any money remains in the hands of the public administrator after final settlement of the estate unclaimed which should be paid over to the county treasurer, the court or judge must order the same paid over to the county treasurer; and on failure of the public administrator to comply with the order within ten days after the same is made, the county attorney must immediately institute the requisite proceedings against the public administrator for a judgment against him and the sureties on his official bond in the amount of the money so withheld and costs.

Sec. 3105. The fees of all officers chargeable to estates in the hands of public administrators must be paid out of the assets thereof as soon as the same come into his hands.

Sec. 3106. Public administrators may administer oaths in regard to all matters touching the discharge of their duties or the administration of estates in their hands.

Sec. 3107. The court or judge may at any time require the public administrator to report the amount of moneys and property of any estate in his hands, and may require him at any time to file additional bond or bonds.

Sec. 3108. When no direction is given in this Chaper for the government or guidance of a public administrator in the discharge of his duties, or for the administration of an estate in his hands, the provisions of Part III., Title XI., Code of Civil Procedure, must govern.

Sec. 3109. It is the duty of the public administrator to keep a book, to be labeled "Register of Public Administrator," in which he must enter the name of every deceased person on whose estate he administers, the date of granting letters, money received, the property and its value, proceeds of all sales of property, the amount of his fees, the expenses of administration, the amount of the estate after all charges and expenses have been paid, the disposition of the property on distribution, the date of discharge of administrator, and such other matters as may be necessary to give a full and complete history of each estate administered by him.

ARTICLE X.

ASSESSORS. SCHOOL SUPERINTENDENTS. ROAD SUPERVISORS.

Section 3115. Duties of assessor.
" *3116. Duties of county superintendents of common schools.*
" *3117. Duties of road supervisors.*

Sec. 3115. The assessor must perform such duties as are prescribed in Title IX., Part III., of this Code.

Sec. 3116. The county superintendent of common schools must perform such duties as are prescribed in Title III., Part III., of this Code.

Sec. 3117. The road supervisors must perform such duties as are prescribed in Title VI., Part III., of this Code.

ARTICLE XI.

CONSTABLES, JUSTICES OF THE PEACE, AND INFERIOR OFFICERS.

Section 3120. Constables to attend justices' courts.
" *3121. Governed by the law prescribing sheriffs' duties.*
" *3122. Duties of justices of the peace.*

Sec. 3120. Constables must attend the courts of justices of the peace within their townships whenever so required, and within their counties, execute, serve and return all process and notices directed or delivered to them by a justice of the peace of such county, or by any competent authority.

Sec. 3121. All the provisions of Article III., of this Chapter, except the fourth and sixth subdivisions of Section 2981, apply to constables, and govern their powers, duties and liabilities.

Sec. 3122. Justices of the peace must perform such duties as are prescribed in Title XI., Part II., of the Code of Civil Procedure, and such other duties as are prescribed by law.

CHAPTER IV.

SALARIES AND FEES OF OFFICERS.

Section 3130. Fees received by county officers to be paid into the county treasury.
" *3131. What officers to receive fees for their own use.*

Section 3132. Counties classified.
" *3133. Salaries of county officers classified.*
" *3134. Salaries, how paid.*
" *3135. Salaries of deputies and classification.*
" *3136. Board of County Commissioners to allow deputies, when.*
" *3137. The number of deputies allowed county clerk, clerk of the district court, and sheriff.*
" *3138. The number of deputies allowed treasurer, assessor, and county attorney.*
" *3139. Board of County Commissioners to determine compensation of deputies.*
" *3140. Sheriff not to receive mileage, but actual expenses.*
" *3141. Sheriff not to make profit out of board of county prisoners.*
" *3142. Fees must be paid into county treasury, when.*
" *3143. Statement and affidavit of fees collected, and form, when.*
" *3144. Treasurer to file affidavits and statements.*
" *3145. Payment of salary not to be made until statement and report filed.*
" *3146. Board not to allow compensation of deputies until affidavit filed, form of affidavit.*
" *3147. Fees must be paid in advance.*
" *3148. No fees to be charged State, county or public officer.*
" *3149. No fees for naturalization.*
" *3150. Officer must give items and receipt.*
" *3151. Must keep statement posted in his office.*
" *3152. Officer must not receive any other fees than those named.*
" *3153. May demand fees for publication of notice.*
" *3154. What term folio means.*
" *3155. Mileage, how computed.*
" *3156. Witnesses on behalf of State or county.*
" *3157. Certificate of clerk to witness.*
" *3158. Preceding sections construed.*
" *3159. Officers to complete the business of their offices.*
" *3160. Penalty for false oath.*
" *3161. Penalty for failure to pay over fees.*
" *3162. Penalty for making false report.*
" *3163. Penalty for sheriff falsely representing his mileage.*
" *3164. Sheriff falsely representing his expenses for boarding prisoners.*
" *3165. Board of County Commissioners to declare office vacant, when.*
" *3166. Fees of Secretary of State and State Auditor.*
" *3167. Fees of clerk of Supreme Court.*

Section 3168. Fees of notary public.
“ *3169. Fees of commisssoner of deeds.*
“ *3170. Fees of sheriff.*
“ *3171. Fees of county clerk.*
“ *3172. Fees of clerk of District Court.*
“ *3173. Fees of clerk in probate proceedings.*
“ *3174. Fees of county treasnrer.*
“ *3175. Fees of county surveyor.*
“ *3176. Fees of coroner.*
“ *3177. Fees of public administrator.*
“ *3178. Fees of justices of the peace.*
“ *3179. Fees of constable.*
“ *3180. Jurors' fees.*
“ *3181. Duties of clerk as to jurors.*
“ *3182. The time for which a juror is paid.*
“ *3183. Jurors in courts not of record, what pay to receive, and no pay from county.*
“ *3184. Witensses' fees.*
“ *3185. Duties of clerk in reference to jurors' certificate.*
“ *3186. Statement of clerk to be sent to Board of County Commissioners.*
“ *3187. Clerk must keep a record of witnesses in criminal actions.*
“ *3188. Fees of witnesses, in courts not of record in civil actions.*
“ *3189. No fees in criminal actions or coroners' inquests.*
“ *3190. In civil actions must be paid by party subpoenaing.*
“ *3191. Witness must be paid in advance in civil actions.*
“ *3192. In criminal actions not more than six to be subpoenaed without order of court.*
“ *3193. Interpreters to be paid as witnesses.*
“ *3194. An expert a witness.*
“ *3195. Judges and clerks of election, fees.*
“ *3196. County commissioners' fees.*

Sec. 3130. The salaries of all county officers are as prescribed in this Chapter. No county officer, except as provided in this Chapter, must receive for his own use any fees, penalties or emoluments, for any official service rendered by him, but all fees, penalties and emoluments, of every kind, must be collected by him for the sole use of the county, and are public moneys belonging to the county, and must be accounted for and paid into the county treasury, as provided in this Chapter, and the county treasurer must place all of such fees in the contingent fund of the county.

Sec. 3131. The county surveyor, coroner, public administrator, justice of the peace, and constables may collect and receive for their own use, respectively, for official services, the fees and emoluments prescribed in this Chapter. All other county officers receive salaries.

Sec. 3132. The counties are classified, for the purposes of this Chapter, as prescribed in Section 2938, of this Code.

Sec. 3133. The county officers are entitled to receive as annual compensation, or salary, for services, according to the following classification, to wit:

First Class—Treasurer, three thousand two hundred and fifty dollars.

Sheriff, four thousand dollars.

Assessor, twenty-five hundred dollars.

County clerk and ex officio recorder, three thousand dollars.

Clerk of District Court, three thousand dollars.

County attorney, twenty-five hundred dollars.

County superintendent of common schools, twelve hundred dollars.

Second Class—Treasurer, three thousand dollars.

Sheriff, three thousand dollars.

Assessor, twenty-five hundred dollars.

County clerk and ex officio recorder, twenty-five hundred dollars.

Clerk of District Court, two thousand dollars.

County attorney, fifteen hundred dollars.

County superintendent of common schools, twelve hundred dollars.

Third Class—Treasurer, twenty-two hundred dollars.

Sheriff, twenty-seven hundred dollars.

Assessor, eighteen hundred dollars.

County clerk and ex officio recorder, twenty-two hundred dollars.

Clerk of District Court, fifteen hundred dollars.

County attorney, twelve hundred dollars.

County superintendent of common schools, one thousand dollars.

Sec. 3134. The salaries must be paid quarterly out of the contingent fund of the county upon the order of the Board of County Commissioners, except the salary of the county attorney, which is payable quarterly, one half from the contingent fund of the county upon the order of the Board of County Commissioners, and the other one-half from the State treasury upon the warrant of the State Auditor, upon the presentation of a certificate from the Board of Couny Commissioners stating the amount for which the same is to be drawn.

Sec. 3135. The maximum annual compensation allowed to any deputy or assistant is as follows:

First Class—Under sheriff not to exceed eighteen hundred dollars; each deputy sheriff not to exceed twelve hundred dollars; deputy clerk and ex officio recorder, not to exceed twelve hundred dollars; deputy clerk of District Court not to exceed twelve hundred dollars; deputy treasurer not to exceed twelve hundred dollars; deputy assessor not to exceed twelve hundred dollars, and deputy county attorney, not to exceed twelve hundred dollars.

Second Class—Under sheriff not to exceed fifteen hundred dollars; each deputy sheriff not to exceed nine hundred dollars; deputy clerk and ex officio recorder not to exceed twelve hundred dollars; deputy clerk of the District Court not to exceed twelve hundred dollars.

Third Class—Under sheriff not to exceed fifteen hundred dollars; each deputy sheriff not to exceed eight hundred dollars; deputy clerk and ex officio recorder not to exceed twelve hundred dollars; deputy clerk of the District Court not to exceed twelve hundred dollars.

Sec. 3136. If at any time in the judgment of the Board of County Commissioners, the salary of any county officer provided in this Chapter is inadequate for the services required of him, and he is unable to perform the duties of the office, the board may allow such officer a deputy or such number of deputies as in its judgment may be required to do the business and perform the duties of the office, in connection with the principal, for such time as may be necessary, and at a salary not exceeding the amount stated in the next preceding section, subject to the qualifications prescribed in the following sections.

Sec. 3137. The whole number of deputies allowed the county clerk and as ex officio recorder in counties of the first class must not exceed three; second class not to exceed two, and third class not to exceed one. The whole number allowed the clerk of the District Court must not exceed in counties where there is more than one judge of the District Court, three, and in all other counties, one. The sheriff in each of the counties must appoint one under sheriff as provided in Section 2982, of this Code, and such appointment may be made without the consent of the Board of County Commissioners. The whole number of deputies allowed the sheriff in addition to the under sheriff, must not exceed in counties of the first class where there are more than one judge of the District Court, four, otherwise three; in counties of the second class not to exceed two, and in counties of the third class not to exceed one. The sheriff, under sheriff or one of the deputies must act as jailer.

Sec. 3138. The whole number of deputies allowed the county treasurer must not exceed in counties of the first class, one, and one additional during the months of October, November and December, and no deputies must be allowed county treasurers in the counties of the second and third class. In counties of the first class, the assessors may be allowed two deputies for the period of six months, beginning with the first Monday of March, if in the judgment of the board such deputies are necessary in his office, at a salary not exceeding one hundred dollars per month. No deputy must be allowed an assessor in counties of the second and third class. The county attorneys in counties of the first class may be allowed one deputy. No deputy must be allowed to the county attorney of a county of the second or third class.

Sec. 3139. The number of deputies allowed to county officers and their compensation must be determined by the Board of County Commissioners, within the maximum limits prescribed in this Chapter, and no deputy must be allowed to a county officer unless the actual necessities of his office require it. The salaries must be allowed and paid quarterly upon the order of the Board of County Commissioners and paid out of the contingent fund.

Sec. 3140. The sheriff must not receive any mileage or compensation for expenses, but must pay into the county treasury all such mileage and compensation, and the Board of County Commissioners must allow the actual traveling expenses of the sheriff while on official duties, the claim for which must be presented to the board as other claims against the county and paid out of the contingent fund.

Sec. 3141. The sheriff must not make profit out of the board of prisoners in his custody. The expenses of boarding and maintaining the prisoners confined in the county jail and in the custody of the sheriff must be presented to the Board of Connty Commissioners by the sheriff as other claims against the county, and, if allowed, paid out of the contingent fund. Such expenses must only include the actual cost of purchasing the food and supplies and preparing and cooking the same. In addition to itemizing the claim, the sheriff must furnish to the board satisfactory vouchers from each person from whom any supplies were obtained or by whom any service was performed.

Sec. 3142. All salaried officers of the several counties must charge and collect for the use of their respective counties, and pay into the county treasury on the first Monday in each month, all the fees now or hereafter allowed by law, paid or chargeable, in all cases, except as provided in Section 1183, of the Code of Civil Procedure.

Sec. 3143. The fees and compensation collected and chargeable for the use of the county in each month must be paid to the county treasurer on the first Monday of the following month, and must be accompanied by a statement and copy of the fee book for the preceding month, duly verified by the officer making such payment. The affidavit must be in the following form:

State of Montana, }
County of ——. }

I, ——, of the county ——, do swear that the fee book in my office contains a true statement in detail of all fees and compensations of every kind and nature, for official services rendered by me, paid or chargeable, or by my deputies or assistants, for the month of ———, A. D. 18—, and that said fee book shows the full amount received or chargeable in said month, and since my last monthly payment; and neither myself, nor, to my knowledge or belief, any of my deputies or assistants, have rendered any official services, except for the county or State, which is not fully set out in said fee book; and that the foregoing statement thereof is a full, true, and correct copy thereof. Subscribed and sworn to before me this ——— day of ———, 18—.

Sec. 3144. The treasurer must file and preserve in his office said statements and affidavits, and must issue to the officer one original and one duplicate receipt therefor, and the officer receiving said receipts must preserve one in his office and file the duplicate with the county clerk, whereupon the clerk must charge the treasurer with the amount shown by the receipt.

Sec. 3145. The Board of County Commissioners must not order the payment of the salary of any such officer until he has filed the duplicate receipt with the county clerk, properly signed by the treasurer, showing that he has made the statement and settlement for that month, required in this Chapter, and filed the report prescribed in Section 2944, of this Code.

Sec. 3146. The board must not order the payment of the compensation of any deputy until he has signed and filed with the county clerk the following affidavit:

State of Montana, }
County of——. }

I do swear that I have rendered services as deputy—— for the month of———18—, and that I am entitled to receive the full sum of my compensation for the same for my own use and benefit, and that I have not paid, deposited or assigned, nor contracted to pay, deposit or assign any part of such compensation, for the use of any other person, nor in any way, directly or indirectly, paid or given, nor contracted to pay or give any reward or compensation for my appointment to office, or the emoluments thereof, to my principal or to any other person. ————————

Sworn to and subscribed before me this———day of——— 18——.

————————

Sec. 3147. The officers mentioned in this Chapter must not, in any case perform any official services unless the fees prescribed for such services are paid in advance, and on such payment the officer must perform the services required. For every failure or refusal to perform official duty when the fees are tendered, the officer is liable on his official bond.

Sec. 3148. No fees must be charged the State, or any county, or any subdivision thereof, or any public officer acting therefor, or in habeas corpus proceedings for official services rendered, and all such services must be performed without the payment of fees.

Sec. 3149. No fees must be charged for naturalization papers, or the record thereof.

Sec. 3150. Every officer, upon receiving any fees for official duty, or service, may be required by the person paying the same to make out in writing, and deliver to such person, a particular account of such fees, specifying for what they accrued, respectively, and must receipt the same; and if he refuse or neglect so to do when required, he is liable to the party paying the same in treble the amount so paid.

Sec. 3151. It is the duty of each officer entitled to collect fees, to keep posted in his office a plain and legible statement of the fees allowed by law; a failure so to do subjects the officer to a fine of one hundred dollars and costs, to be recovered by the county attorney in the name of the State.

Sec. 3152. The officers above named must receive no other fees for any services performed by them in any action or proceeding, or for the performance of any service for which fees are allowed; and in case of any violation of the provisions of this Chapter, the party demanding or receiving any fees not herein allowed, is liable to refund the same to the party aggrieved, with treble the amount as damages, besides costs of suit.

Sec. 3153. When, by law, any publication is required to be made by an officer of any suit, process, notice, order, or other paper, the costs of the same must be first tendered by the party, if demanded, for whom such order of publication was granted, before the officer is compelled to make such publication.

Sec. 3154. The term "folio," when used as a measure for computing fees, means one hundred words, counting every two figures necessarily used as a word. Any portion of a folio, when in the whole paper there is not a complete folio, and when there is an excess over the last folio exceeding one half, may be computed as a folio.

Sec. 3155. When any sheriff, constable, or coroner serves more than one process in the same cause, not requiring more than one journey from his office, he shall receive mileage only for the more distant service, and no mileage in any case must be allowed for less than one mile actually traveled.

Sec. 3156. The Attorney General, or any county attorney, is authorized to cause subpoenas to be issued, and compel the attendance of witnesses on behalf of the State, or county, without paying or tendering fees in advance, to either officers or witnesses; and any witness refusing or failing to attend, after being served with a subpoena, may be proceeded against, and is liable in the same manner as is provided by law in other cases where fees have been tendered or paid.

Sec. 3157. The clerk of any court before which any witness shall have attended on behalf of the State, or county, in any civil action, must give to such witness a certificate, under seal, of travel and attendance, which shall entitle him to receive the amount therein stated from the State or county treasury.

Sec. 3158. The provisions of the two preceding sections of this Chapter shall extend to all actions and proceedings brought in the name of the Attorney General, or any other person or persons, for the benefit of the State or county.

Sec. 3159. It is the duty of all officers to complete the business of their respective offices to the time of the expiration of their respective terms; and in case any officer, at the close of his term, leaves to his successor official labor to be performed, for which he has received compensation, or which it was his duty to perform, he is liable to pay to his successor the full value of such services, which may be recovered in any court of competent jurisdiction, upon action brought against him or on his official bond.

Sec. 3160. Every person who takes a false oath, under the provisions of this Chapter, is punishable as provided in Section 134, of the Penal Code.

Sec. 3161. Every officer who fails or refuses to pay over any fees collected by him to the county treasurer, or fails to collect the same, as provided by this Chapter, is punishable as provided in Section 476, of the Penal Code.

Sec. 3162. Every officer who makes a false report of the fees received by him is guilty of a felony and punishable as provided in Section 18, of the Penal Code.

Sec. 3163. Every sheriff who falsely represents to the Board of County Commissioners or Board of Examiners his actual traveling expenses in the performance of any official duty, or causes to be paid to him from the State or any county treasury, a sum exceeding his actual expenses in the performance of such duty, is punishable as provided in Sections 18 and 491, of the Penal Code.

Sec. 3164. Every sheriff who falsely represents to the Board of County Commissioners the actual expenses for boarding prisoners or for furnishing food and supplies therefor, or for any service rendered in connection therewith, or presents to said board false items in a claim or false vouchers, or makes any profit whatever out of the board or keeping of prisoners in his custody; and every person who gives a false item or false voucher to be used by such sheriff in any claim against the county before such board, is punishable as provided in Sections 18 and 491, of the Penal Code.

Sec. 3165. The Board of County Commissioners, upon receiving a certified copy of the record of conviction of any officer for receiving illegal fees, or where the officer collects fees and fails to account for the same, upon proof thereof, must declare his office vacant and appoint his successor.

Sec. 3166. The fees of public officers in the State are as follows, which must be charged and collected for the use of the State and counties, respectively:

SECRETARY OF STATE.

The fees of the Secretary of State are specified in Section 244, of this Code.

STATE AUDITOR.

For filing and examination of the first application of any insurance company doing business as prescribed in Chapter I., Title IV., Part IV., Division 1, of the Civil Code, and issuing the license thereon	$ 50 00
For filing each annual statement, as provided in the foregoing Chapter	25 00
For each certificate of authority provided in said Chapter	2 00
For license fee for assessment life insurance companies, as prescribed in Section 472, of the Civil Code	100 00
For filing annual statement, as prescribed in Section 473, of the Civil Code	25 00
For making the certificate mentioned in Section 470, of the Civil Code, in addition to the necessary expenses incurred	10 00
For copy of every paper filed or record in his office, 20 cents per folio.	
For certificate and seal	50
For filing any papers not otherwise provided for	25

CLERK OF THE SUPREME COURT.

Sec. 3167.—

The fees of the clerk of the Supreme Court are specified in Section 462, of this Code, and salary in Section 465, of this Code.

Sec. 3168.—

NOTARY PUBLIC.

For drawing and copying every protest for the non-payment of a promissory note, or for the non-payment or non-acceptance of a bill of exchange, draft, or check	$ 1 00
For drawing and serving every notice of non-payment of a promissory note, or of the non-payment or non-acceptance of a bill of exchange, order, draft, or check	1 00
For recording every protest	1 00
For drawing an affidavit, deposition, or other paper for which provision is not herein made, for each folio, unless otherwise prescribed	20
For taking an acknowledgment or proof of a deed or other instrument, to include the seal and the writing of the certificate, for the first signature	1 00

For each additional signature	50
For administering an oath or affirmation	25
For certifying an affidavit, with or without seal, including oath	50

COMMISSIONER OF DEEDS.

Sec. 3169.—

The fees of commissioner of deeds are the same as those prescribed for a notary public.

THE SHERIFF.

Sec. 3170.—

For service of summons and complaint on each defendant, besides mileage $	1 00
For levying and serving each writ of attachment or execution on real or personal property, besides mileage	1 00
For service of attachment on the body or order of arrest on each defendant, besides mileage	1 00
For service of affidavit, order and undertaking in claim and delivery, besides mileage	1 00
For serving a subpoena for each witness summoned, besides mileage	30
For serving a writ of possession or restitution	2 00
For trial of the right of property or damages, including all services except mileage	3 00
For taking bond or undertaking in any case authorized by law	1 00
For serving every notice, rule or order, besides mileage, on each person	1 00
For copy of any writ, process or other paper when demanded or required by law, for each folio	20
For advertising any property for sale on execution, or under any judgment or order of sale, exclusive of the costs of publication	1 00
For commissions, for receiving and paying over money on execution or other process, when lands or personal property have been levied on and sold, on the first $1,000, two per cent.; on all sums between $1,000 and $5,000, one per cent.; on all sums over $5,000, one-half of one per cent.	
For commissions for receiving and paying over money on process without levy, or when lands or goods levied on are not sold, on the first $500, one and one-half per cent., and on sums between $500 and $1,000, one per cent., and on all sums over $1,000, one-half of one per cent.	
For executing in duplicate a certificate of sale, exclusive of filing same	1 00
For drawing and executing sheriff's deed, including acknowledgement	3 00

For the expense in taking and keeping possession of and preserving property under attachment, execution, or other process, such sum as the court or judge may order, not to exceed the actual expense incurred, and no keeper must receive to exceed $3.00 per day, and no keeper must be employed without an order of court, nor must he be so employed unless the property is of such character as to need the personal attention and supervision of a keeper. No property must be placed in charge of a keeper if it can be safely and securely stored, or where there is no reasonable danger of loss.	
For each mile actually traveled in serving every writ, process, order, notice or other paper, going and coming	15
But no mileage must be allowed on an attachment, order of arrest, order for the delivery of personal property, or any other order, notice or paper, when the same accompanies the summons, and the service thereof may be made at the time of the service of the summons, unless for the distance actually traveled beyond that required to serve the summons.	
When two papers are served on the same person at the same time, but one mileage must be charged.	
In the service of subpoenas, but one mileage must be charged, when the persons named in the subpoena live in the same place or in the same direction, but mileage may be charged for the longest distance actually traveled.	
Any writ or other paper for service must be received at any place in the county where the sheriff or a deputy is found, and mileage must be computed from such place. If papers are delivered for service away from the county seat, a copy or copies thereof must be furnished for service.	
For actual expenses in conveying a person, when under arrest, before a magistrate or to jail, or on habeas corpus, which must be allowed by the Board of County Commissioners.	

COUNTY CLERK AND EX OFFICIO RECORDER.

Sec. 3171.—

For filing and recording each instrument of writing allowed by law to be recorded, for each folio....$	20
For each entry in index	10
For copy of any record or paper, for each folio	20
For searching the records and files of the office, for each year, when required	15

For abstract or certificate of title, when required, for each conveyance or incumbrance	25
For record of declaratory statement of mining claims, including index	1 00
For filing and recording notice of appropriation of water, including index	1 00
For every entry of discharge or satisfaction of mortgage, other instrument, or lien on the margin of the record thereof, and indexing	25
For filing and indexing chattel mortgage, lien, or any other paper required by law to be filed and indexed	1 00
For issuing marriage license and recording certificate of marriage, including indexing, to be paid when license is issued	2 00
For recording transcripts, and all other services in estray and lost property cases, including index	1 00
For recording town plats, or maps, for each two hundred lots, or less	10 00
For each additional lot	05
For recording marks and brands, for each mark and brand	50
For filing and recording each affidavit of annual work on mining claims, including indexing	1 00
For filing and indexing each annual statement of a corporation	1 00
For filing each affidavit of butcher, of brands of cattle slaughtered, and indexing	25
For administering an oath	25
For administering an oath with certificate and seal	50
For taking an acknowledgment, including seal, for first signature	1 00
For each additional signature	50

CLERK OF THE DISTRICT COURT.

Sec. 3172.—

At the commencement of each action or proceeding the clerk must collect from the plaintiff the sum of	$ 5 00
And the defendant, on his appearance, must pay the sum of	2 50
(Which includes all the fees to be paid up to the entry of judgment.)	
On the entry of judgment in favor of plaintiff he must pay the additional sum of	2 50
And if in favor of defendant, the defendant must pay the sum of	5 00

(Which fees include all the clerk's costs for all services rendered in any action or proceeding, except issuing execution or order of sale, and the fees for transcript on appeal. If the action is dismissed,

no fee for the entry of judgment need be paid, unless the party desires the entry of such judgment.)	
For filing the papers and transcript on appeal from a justice or other inferior court or other tribunal, the party appealing must pay the sum of........	5 00
(Which includes all costs up to the entry of judgment.)	
For entry of judgment in favor of party appealing, he must pay the sum of.....................	2 50
For entry of judgment in favor of the other party, or respondent, he must pay the sum of..........	5 00
(Which fees include all the clerk's costs for all services rendered on such appeals.)	
For transcripts on appeal, per folio................	20
and certificate thereto, with seal................	5 00
For copies of records or papers in his office, per folio..	20
For oath and jurat, with seal......................	50
For administering oath............................	25
For taking depositions, per folio...................	20
For filing and docketing transcript of judgment and issuing execution thereon......................	2 50
For issuing execution and all services connected therewith.................................	1 00
For issuing execution or order of sale on foreclosure of liens..................................	1 00
and in addition, per folio......................	20
For searching records of files for each year, except for suitors and their attorneys.................	25
For transmission of records or files or transfer of cases to other courts.........................	2 50
For filing and entering papers on transfer from other courts....................................	5 00
For making, acknowledging and procuring the signature of judge to deed of lot in town site.......	4 00

FEES OF CLERK IN PROBATE PROCEEDINGS.

Sec. 3173.—

At the time of filing the petition for letters testamentary, of administration or guardianship, the clerk must collect from the petitioner the sum of......$	5 00
On the return of the inventory, if the estate is appraised at a sum less than $1,500, no additional fees are required. If the estate is appraised at $1,500 and not to exceed $3,000, there must be paid an additional fee by the executor, administrator or guardian of....................................	5 00
Making in all.....................................	10 00
If for more than $3,000, and not to exceed $10,000, an additional fee of $10.00, making in all.........	15 00

If for more than $10,000 and not to exceed $20,000, and additional fee of $20.00, making in all	25 00
If for more than $20,000 and not to exceed $30,000, an additional fee of $35.00, making in all	40 00
If for more than $30,000, and not to exceed $50,000, an additional fee of $45.00, making in all	50 00
If for more than $50,000, and not to exceed $100,000, an additional fee of $70.00, making in all	75 00
If for more than $100,000, an additional fee of $95.00, making in all	100 00
For admitting a will to probate and all services connected therewith, in addition to the above, there must be paid to the clerk the sum of	5 00
If a will is contested, the contestant must pay to the clerk, on filing his grounds of opposition, the sum of	5 00
And on the entry of judgment thereon the prevailing party must pay the sum of	2 50
On filing a petition to determine heirship or title to an estate, the petitioner must pay to the clerk the sum of	5 00
On entry of judgment thereon the prevailing party must pay the sum of	2 50

COUNTY TREASURER.

Sec. 3174.—

For making and acknowledging a deed for property sold for delinquent taxes	$ 3 00
For issuing each license	1 00

COUNTY SURVEYOR.

Sec. 3175. The county surveyor is entitled to receive and collect for his own use the following fees:

For services in making a survey required by any court, or upon the application of any person, the sum of $7 per day, to be paid by the person making the application, and if made for the county by order of the Board of County Commissioners, to be paid out of the contingent fund.	
For copies and certificates, per folio	20
For copy of any plat of survey	2 00
Expenses of chainman and markers, if furnished by surveyor, not to exceed per day (or as agreed upon.)	3 00

CORONER.

Sec. 3176. The coroner is entitled to receive and collect for his own use the following fees:

For holding an inquest, and performing all the services required by law, including summoning the jury and witnesses, swearing them, taking their testimony, and all other services required by the statute	$ 15 00

For the number of miles actually traveled each way, per mile	15

A justice of the peace acting as coroner is allowed the same fees as the coroner, and no more.

For acting as sheriff, the coroner is allowed the same fees as a sheriff or constable for like services.

PUBLIC ADMINISTRATOR.

Sec. 3177.—

The public administrator is allowed to receive and collect for his own use, for services rendered, the same fees as are allowed executors and administrators, as provided in Section 1737, of the Code of Civil Procedure.

JUSTICES OF THE PEACE—FEES IN CIVIL ACTIONS.

Sec. 3178.—

For all services in an action in which there is no appearance by the defendant, and judgment is rendered by default, including issuing of execution and return, to be paid by plaintiff	$ 2 50
For all services in an action where judgment is rendered by confession	2 50
For all services in an action where issue is joined and a trial is had, including the entry of judgment, issuance, and return of execution and satisfaction	7 50

(Five dollars to be paid by the plaintiff, and $2.50 by the party in whose favor the judgment is rendered. The justice may demand of the plaintiff the payment of $2.50 in advance when the summons is issued, and $2.50 of plaintiff when issue is joined, and $2.50 of the prevailing party when judgment is rendered, which includes all the fees to which the justice is entitled up to the notice of appeal.)

For filing notice of appeal, filing, justifying and approving undertaking on appeal, and transmitting the papers to the District Court with certificate	2 50

FEES IN CRIMINAL ACTIONS.

For all services rendered as a committing magistrate where examination is waived	$ 2 50
For all services rendered as a committing magistrate where a hearing takes place and witnesses are examined	5 00
For all services rendered as a magistrate on a hearing on a complaint to bind over a person to keep the peace	2 50
For all services rendered where there is a plea of guilty	2 50
For all services rendered where there is a trial	5 00
For taking, filing and approving bail bond, including justification	1 00

For transmitting papers on appeal, and certificate including bond and approval	1 50
For all services in issuing a search warrant, to be paid by the person demanding same	1 00

The total amount of fees allowed in criminal cases must not exceed $500 in any one year; the excess must be paid into the contingent fund of the county treasury.

MISCELLANEOUS FEES.

For copies of papers on file or docket, per folio	20
For taking the acknowledgment of an instrument, for the first name	1 00
For each additional name	50
For administering oath and jurat	50
For all services relating to lost or unclaimed property as prescribed in Chapter IV., Title VII., Part III., of this Code	2 00
For performing the marriage ceremony and returning certificate to county clerk	5 00

CONSTABLES' FEES—CIVIL ACTIONS.

Sec. 3179.—

For serving summons, including copy on each defendant, besides mileage	$ 50
For serving subpoena, including copy, on each person, besides mileage	20
For all services in summoning a jury and taking charge of same	2 00
For all services in serving an attachment on property, or levying an execution, or executing an order of arrest, or order for the delivery of personal property, including all copies	1 00
For the expense in taking and keeping possession of or preserving property under attachment, execution, or other process, the same fees and upon the same conditions as allowed to the sheriff.	
For taking and receiving undertaking in any case in which he is authorized	1 00
For serving every notice, rule or order, besides mileage, including copy	1 00
For advertising any property for sale under execution, exclusive of costs of publication	1 00
For serving writ of possession, besides mileage	2 00
For all services in trial of right of property or damages, besides mileage	3 00
For commissions for receiving and paying over money on execution or other process where property has been levied on and sold, two per cent; when collected without sale, one per cent.	
For mileage, the same as sheriff and under the same conditions.	

For executing in duplicate a certificate of sale, exclusive of the fee for filing	1 00
For drawing and executing a constable's deed, including acknowledgment	3 00

CRIMINAL ACTIONS.

For making every arrest in a criminal proceeding or executing a search warrant, besides mileage	$ 1 50
For all services in summoning and taking charge of a jury	2 00
For serving a subpoena, including copy on each person, besides mileage	20

For every mile necessarily traveled in executing any warrant, serving subpoena, or taking a person before a magistrate or to jail, the same mileage as in civil actions, and under the same conditions, and in addition, in serving a subpoena or warrant, when two or more persons are named in any warrant or subpoena, in the same or different actions in the hands of the officer, and such persons live in the same direction, but one mileage must be charged, as provided for the mileage of sheriffs in civil actions.

When two or more persons are brought before a magistrate or to jail, at the same time or might here been so brought, the officer must be allowed but one mileage.

For conveying a person when under arrest, the actual expenses incurred in the transportation of such person must be allowed by the Board of County Commissioners, but the officer must pay his own expenses out of his mileage.

The total amount of fees allowed in criminal cases must not exceed $500 in any one year. The excess must be paid into the contingent fund of the county treasury.

JURORS' FEES.

Sec. 3180.—

Grand and trial jurors receive three dollars per day for attendance before any court of record and fifteen cents per mile each way for traveling from and to their residences and county seat. No juror who is excused from attendance upon his own motion on the first day of his appearance in obedience to notice, or who has been summoned as a special juror and not sworn in the trial of the case, must receive per diem, but mileage only.

Sec. 3181.—

The clerk must give to each juror at the time he is excused from further service a certificate taken from a book containing a stub with a like designation, signed by himself under seal, in which must be stated the name of the juror, the number of days' attendance, the number of miles traveled and the amount due, and on presentation of such certificate to the county treasurer the amount specified in the certificate must be paid out of the general fund, and the clerk must make a detailed statement containing a list of the jurors, the amount of fees and mileage earned by each, and file the same with the clerk of the Board of County Commissioners on the first day of every regular meeting of the board, and no quarterly salary must be paid the clerk until such statement is filed. The board must examine such statement and see that it is correct.

The clerk must keep a record of the attendance of jurors and compute the amount due for mileage, and the distance from any point to the county seat must be determined by the shortest traveled route.

Sec. 3182.—

A juror must be paid for each day's attendance for the term or session for which he was summoned, until excused. He must not receive any compensation for Sundays or legal holidays, and a juror who resides within twenty-five miles from the county seat must not receive any compensation for any day when the court is not actually in session, or if in session, is engaged in the trial of a case in which the juror is not empanneled, or is engaged in other business, and the juror has been temporarily excused from attendance on court.

Sec. 3183.—

Jurors in courts not of record, in civil actions, shall receive $1.50 per day, but no mileage, which must be paid by the party demanding a jury, and taxed as costs against the losing party.

Jurors in courts not of record, in criminal actions and on coroners' inquests, must not receive any pay or compensation for their services.

WITNESS' FEES.

Sec. 3184.—

For attending in any civil or criminal action or proceeding before any court of record, referee or officer authorized to take depositions, or commissioners to assess damages, or otherwise, for each day	3 00
For mileage in traveling to the place of trial or hearing, each way, for each mile....................	15

Sec. 3185.—

The witnesses in criminal actions must report their presence to the clerk the first day they attend under the subpoena, and at the time any witness is excused from further attendance the clerk must give to each witness a certificate taken from a book, containing a stub with like designations, signed by the clerk, under seal, in which must be stated the name of the witness, the number of days in attendance, the number of miles traveled, and the amount due, and on presentation of such certificate to the county treasurer, the amount specified in the certificate must be paid out of the general fund.

Sec. 3186.—

And the clerk must make a detailed statement containing a list of the witnesses, the amount of fees and mileage earned by each, and file the same with the clerk of the Board of County Commissioners on the first day of every regular meeting of the board, and no quarterly salary must be paid to the clerk until such statement is filed. The board must examine the statement and see that it is correct.

Sec. 3187.—

The clerk must keep a record of the attendance of witnesses in criminal cases, and compute the amount due them for mileage, and the distance from any point to the county seat must be determined by the shortest traveled route.

Sec. 3188.—

Witnesses in courts not of record in civil actions and proceedings shall receive per day............. 1 50 (but no mileage.)

Sec. 3189.—

Witnesses in courts not of record in criminal actions and on coroners' inquests, must not receive any pay or compensation for their services.

Sec. 3190.—

The fees and compensation of a witness in all civil actions must be paid by the party who caused him to be subpoenaed.

Sec. 3191.—

No witness is obliged to attend court when subpoenaed unless his mileage and fees for one day's attendance are tendered or paid to him on his demanding the same, nor unless his fees for attendance thereafter for each day are tendered or paid to him on demand.

The fees of witnesses paid may be taxed as costs against the losing party.

Sec. 3192.—

In criminal actions in a court of record the clerk of the court must not issue a subpoena on behalf of the State or defendant for more than six witnesses, except upon the order of the court or judge, and such order may be made upon proper showing by affidavit or otherwise.

Sec. 3193.—

Interpreters and translators must receive the same fees as witnesses.

Sec. 3194.—

An expert is a witness and receives the same compensation as a witness.

BOARDS OF ELECTION.

Sec. 3195.—

The judges and clerks of election receive $3.00 per day.

BOARD OF COUNTY COMMISSIONERS.

Sec. 3196.—

Members of the Board of County Commissioners each receive $8.00 per day and 15 cents per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence.

CHAPTER V.

OTHER COUNTY CHARGES.

Section 3200. County charges to be audited.
" 3201. Enumeration of county charges.
" 3202. Costs on removal of criminal actions.
" 3203. Proceedings in collection of such costs.

Sec. 3200. Accounts for county charges of every description must be presented to the Board of County Commissioners to be audited, as prescribed in Article III., Chapter II., Title II., Part IV., of this Code.

Sec. 3201. The following are county charges:

1. Charges incurred against the county by virtue of any provision of this Title.

2. One-half of the salary of the county attorney, and all expenses necessarily incurred by him in criminal cases arising within the county.

3. The salary and actual expenses for traveling when on official duty and for board of prisoners allowed by law to sheriffs and the compensation allowed by law to constables for executing process on persons charged with criminal offenses.

4. The sums required by law to be paid to grand and trial jurors and witnesses in criminal cases.

5. The accounts of the coroner of the county for such services as are provided by law.

6. All charges and accounts for services rendered by any justice of the peace for services in the examination or trial of persons charged with crime as provided for by law.

7. The necessary expenses incurred in the support of county hospitals and poor farms, and the indigent sick and the otherwise dependent poor whose support is chargeable to the county.

8. The contingent expenses necessarily incurred for the use and benefit of the county.

9. Every other sum directed by law to be raised for any county purpose under the direction of the Board of County Commissioners, or declared to be a county charge.

Sec. 3202. When a criminal action is removed before trial, the costs accruing upon such removal and trial must be a charge against the county in which the indictment was found.

Sec. 3203. The District Court of the county to which such action is removed must certify the amount of costs allowed and certified by the court to the Board of County Commissioners of their county, and such Board of County Commissioners shall audit the same and draw their warrants therefor upon the treasurer of the county from which such action was removed, and such Board of County Commissioners shall forward to said treasurer and Board of County Commissioners of the county from which said action was transferred as aforesaid, a certified copy of the total amount of costs allowed by the court, giving each item as certified to them by the clerk of the District Court and the court; and the Board of County Commissioners receiving such certified copy of said costs allowed, shall enter the same in their books as a charge against the treasurer of their county, and the county treasurer of the county from which such action was removed must immediately upon presentation pay said warrant out of the general fund of said county; or if at the time of presentation there is not sufficient moneys in the said general fund to pay the same, he must indorse upon said warrant, "Not paid for want of funds," and said warrnt must be registered, and shall draw interest at the same rate and be paid in the same manner as though it had been drawn by the Board of County Commissioners of the county where the indictment was found.

TITLE III.

CITIES AND TOWNS.

Chapter *I. Cities and towns as bodies corporate.*
" *II. Classification of cities and towns.*

Chapter III. Organization and government of cities and towns.
" IV. The proceedings for changing cities and towns from one class to another.
" V. Indebtedness of cities or towns for interna improvements. Bonds.
" VI. Plats of cities, towns and additions thereto
" VII. General provisions.
" VIII. City and town sites on the public lands of the United States.

CHAPTER I.

CITIES AND TOWNS AS BODIES CORPORATE.

Section 3300. General powers.
" 3301. Distribution of powers of cities.
" 3302. Distribution of powers of towns.
" 3303. City and town, how named and general corporate powers.

Sec. 3300. A city or town is a body politic and corporate, with the general powers of a corporation, and the powers specified or necessarily implied in this Title, or in special laws heretofore enacted.

Sec. 3301. Every city has legislative, executive, and judicial power. Its legislative power is vested in a city council, its executive power in a mayor and his subordinate officers, and its judicial power in a police court.

Sec. 3302. Every town has legislative, executive, and judicial power. Its legislative power is vested in a town council, its executive power in a mayor and his subordinate officers, and its judicial power in justices of the peace of the township in which the town is situated.

Sec. 3303. Every city or town organized under this Title is entitled "the city of——, (naming it,) or the town of——, (naming it,)" and by such name has perpetual succession; may sue and be sued in all courts and places, and in all proceedings whatever, and may have and use a common seal, may purchase, receive, have, take, hold, lease, use, and enjoy property of every name or description, and dispose of the same for the common benefit, and has such other powers as are incident to municipal corporations not inconsistent with the laws of the United States or the State.

CHAPTER II.

CLASSIFICATION OF CITIES AND TOWNS.

Section 3310. Cities and towns defined.
" 3311. Basis of classification.

Sec. 3310. Every city having a population of five thousand or more, is a city of the first class: and every city having a population of fifteen hundred and less than five thousand, is a city of the second class; and every municipal corporation having a population of over three hundred and less than fifteen hundred is a town.

Sec. 3311. The census taken under the direction of the congress of the United States in the year eighteen hundred and ninety, and every ten years thereafter, shall be the basis upon which the respective populations of said municipal corporations shall be determined, unless a direct enumeration of the inhabitants thereof be made by the State or municipal corporation, in which case such direct enumeration constitutes such basis.

CHAPTER III.

ORGANIZATION AND GOVERNMENT OF CITIES AND TOWNS.

Article I. Proceedings for the organization of a city or town and adding contiguous territory.
" II. Officers and elections.
" III. Executive powers.
" IV. Legislative powers.
" V. Taxation, assessments for improvements, licenses.
" VI. Judicial powers.
" VII. Damage caused by change of grade.

ARTICLE I.

PROCEEDINGS FOR THE ORGANIZATION OF A CITY OR TOWN AND ADDING CONTIGUOUS TERRITORY.

Section 3320. Steps to be taken to incorporate.
" 3321. Election how conducted.
" 3322. First election for officers.
" 3323. Officers elected and conduct of election.
" 3324. Additions to cities or towns.
" 3325. Additions how made.
" 3326. Proceedings to annex.
" 3327. Election on the question.

Sec. 3320. Whenever the inhabitants of any part of a county desire to be organized into a city or town, they may apply by petition in writing, signed by not less than one hundred qualified electors, residents of the State and residing within the limits of the proposed incorporation, to the Board of County Commissioners of the county in which the territory is situated, which petition must describe the limits of the proposed city or town, and of the several wards thereof, which must not exceed one square mile for each five hundred inhabitants residents therein. The petitioners must annex to the petition a map of the proposed territory to be incorporated, and state the name of the city or town. The petition and map must be filed in the office of the county clerk. Upon filing the petition the Board of County Commissioners, at its next regular or special meeting, must appoint some suitable person to take a census of the residents of the territory to be incorporated. After taking the census, the person appointed to take the same, must return the list to the board of commissioners, and the same must be filed by them in the county clerk's office. No municipal corporation must be formed unless the number of inhabitants is three hundred or upwards.

Sec. 3321. After filing the petition and census, if there be the requisite number of inhabitants for the formation of a municipal corporation, as required in the preceding section, the county commissioners must call an election of all the qualified electors residing in the territory described in the petition. Said election must be held at a convenient place within the territory described in the petition, to be designated by the board, notice of which election must be given by publication in some newspaper published within the limits of the territory to be incorporated, or if none be published therein, by posting notice in three public places within said limits. The notice must be published thirty days prior to the election, and must specify the time and place when and where the same is held, and contain a description of the boundaries of the city or town. The board must appoint judges and clerks of election, who must qualify as required by law, and after the election they must report the result to the board, together with the ballots cast at said election. The ballots used at the election must be "for incorporation" or "against incorporation," and all elections must be conducted as provided in Title II., Part III., of this Code.

Sec. 3322. When the incorporation of a city or town is completed, the Board of County Commissioners must give notice for thirty days in a newspaper published within the limits of the city or town, or if none be published therein, by posting notices in six public places within the limits of the corporation, of the time and place or places of holding the first election for offices of the corporation. At such election all the electors qualified by the general election laws of the State, and who have resided within the limits of the city or town for six months, and within the limits of the ward for thirty days preceding the election, are qualified electors and may choose officers for the city or town, to hold office as prescribed in the next succeeding section.

Sec. 3323. At such election there must be elected, in a city of the first class, a mayor, a police judge, a city attorney, a city treasurer, a city marshal, and two aldermen from each ward into which the city may be divided; in a city of the second class, a mayor, a police judge, a city treasurer, a city marshal, and two aldermen from each ward; in a town, a mayor, and two aldermen from each ward, who hold office until the first Monday of May after the first annual election, and until their successors are elected and qualified. The persons so elected must qualify in the manner prescribed by law for county officers. The Board of County Commissioners must appoint judges and clerks of election, and canvass and declare the result thereof. The election must be conducted in the manner required by law for the election of county officers.

Sec. 3324. Whenever territory adjoining any incorporated city or town is surveyed, and laid off into streets and blocks as an addition thereto, upon filing the map or plat thereof in the office of the county clerk, said territory may become a part of such city or town, upon the approval of the mayor and a majority of the council indorsed thereon.

Sec. 3325. The council has control of all such additions, and power by ordinance to compel the owners of these additions to lay out streets, avenues and alleys, so as to have the same correspond in width and direction, and be continuations of the streets, avenues and alleys in the city or town, or in the additions thereto, contiguous to or near the proposed addition. The owner of any addition has no rights or privileges unless the terms and conditions of the ordinance are complied with, and the plat thereof has been submitted to, and approved by, the mayor and council, and such approval indorsed thereon.

Sec. 3326. When any city or town desires to annex any abutting and contiguous territory, it is lawful, by ordinance passed for that purpose, to submit the question of annexation to the qualified electors of the city or town. If a majority of the electors vote in favor of the annexation, the city or town council must present to the Board of County Commissioners a petition for the annexation. The petition must describe the territory proposed to be annexed, and there must be attached thereto a map of the same. Such proceedings must be had upon the petition as are provided in this Chapter for submitting the same to a vote of the qualified electors of a proposed addition, and if a majority of the electors residing within the contiguous territory vote in favor of annexation, said territory becomes a part of the city or town, and the inhabitants and all property therein are subject to the ordinances and other regulations of the city or town, as if originally forming part thereof.

Sec. 3327. When a city or town desires to be annexed to another and contiguous city or town, the council of each thereof must appoint three commissioners to arrange and report to the municipal authorities respectively the terms and conditions on which the annexation can be made, and if the city or town council of the municipal corporation to be annexed approve of the terms thereof, it must by ordinance so declare, and thereupon submit the question of annexation to the electors of the respective cities or towns. If a majority of the electors vote in favor of annexation the council must so declare, and a certified copy of the proceedings for annexation and of the ordinances must be filed with the clerk of the county in which the cities or towns so annexed are situated, and when so filed the annexation is complete, and the city or town to which the annexation is made has power, in addition to other powers conferred by this Title, to pass all necessary ordinances to carry into effect the terms of the annexation. Such annexations do not affect or impair any rights, obligations, or liabilities then existing for or against either of such cities or towns.

ARTICLE II.

OFFICERS AND ELECTIONS.

Section 3335. *Officers of city of the first class.*
“ 3336. *Officers of city of second class.*
“ 3337. *Officers of towns.*
“ 3338. *Trustees of public library.*
“ 3339. *Council has power to abolish office.*
“ 3340. *Power to consolidate offices.*
“ 3341. *City or town to be divided into wards.*
“ 3342. *How divided and change of boundaries.*
“ 3343. *Annual election of cities and towns and terms of office.*
“ 3344. *Terms of alderman how decided.*
“ 3345. *Terms when to begin.*
“ 3346. *Who eligible.*
“ 3347. *Registration of electors.*
“ 3348. *Qualification of electors.*
“ 3349. *Elections how conducted.*
“ 3350. *Canvass, when and how made.*
“ 3351. *Oath and bonds, vacancy.*
“ 3352. *When duties of office begin.*
“ 3353. *Vacancies how filled.*
“ 3354. *Accountability of officers provided for.*
“ 3355. *Official bonds, how given.*
“ 3356. *Salaries must be fixed.*
“ 3357. *Salaries of mayor and aldermen.*
“ 3358. *Salary of police judge.*
“ 3359. *Compensation of justice of the peace acting as police judge.*
“ 3360. *Salary of treasurer.*
“ 3361. *Salary of city attorney.*
“ 3362. *Salary of marshal.*
“ 3363. *Salary of clerk.*
“ 3364. *Salary must not be increased or diminished during term.*

Section 3365. Alderman not to hold any other office, and city officers prohibited from holding any other office.

" *3366. Constitutional oath of office must be taken.*

Sec. 3335. The officers of a city of the first class consist of one mayor, two aldermen from each ward, one police judge, one city treasurer, who may be ex officio tax collector, one city attorney and one city marshal, who must be elected by the qualified electors of the city, as hereinafter provided. There may also be appointed by the mayor with the advice and consent of the council, one city clerk, who may be ex officio city assessor, one street commissioner, one city surveyor, one pound keeper and one city jailer, and whenever a paid fire department is established in such city a chief engineer and one or more assistant engineers, and any other officer necessary to carry out the provisions of this Title. The city council may by ordinance prescribe the duties of all city officers and fix their compensation subject to the limitations contained in this Title.

Sec. 3336. The officers of a city of the second class consist of one mayor, two aldermen from each ward, one police judge, one city treasurer, who may be ex officio tax collector, and one city marshal, who must be elected by the qualified electors of the city, as hereinafter provided. There may also be appointed by the mayor with the advice and consent of the council, one city clerk, who is ex officio city attorney, and may be ex officio city assessor, one city surveyor who is ex officio street commissioner, and any other officer necessary to carry out the provisions of this Title. The city council may prescribe the duties of all city officers, and fix their compensation, subject to the limitations contained in this Title.

Sec. 3337. The officers of a town consist of one mayor, and two aldermen from each ward, who must be elected by the qualified electors of the town as hereinafter provided. There may be appointed with the advice and consent of the council one clerk, who may be ex officio assessor and a member of the council, and one treasurer, who may be ex officio tax collector, and one marshal, who may be ex officio street commissioner, and any other officers necessary to carry out the provisions of this Title. The town council may prescribe the duties of all town officers, and fix their compensation, subject to the limitations contained in this Title.

Sec. 3338. The trustees of any public library created and existing in a city or town must be appointed by the mayor with the advice and consent of the council. The number of such trustees and their duties must be prescribed by ordinance.

Sec. 3339. The city or town council has the power to abolish any office, the appointment to which is made by the mayor, with the advice and consent of the council, and discharge any officer so appointed, by a majority vote of the council, but no office created under this Title, must be abolished by the council.

Sec. 3340. The city or town council may, by ordinance, consolidate any of the offices, the appointment to which is made by the mayor, with the advice and consent of the council, and may require any of the elected officers to perform any of the duties of an appointed officer whose office has been abolished.

Sec. 3341. The first city or town council elected under the provisions of this Title, must divide the city or town into wards for election and other purposes, having regard to population so as to make them as nearly equal as possible.

Sec. 3342. Cities of the first class must be divided into not less than three nor more than ten wards, and cities of the second class into not less than two nor more than five wards, and towns into not less than two nor more than three wards. All changes in the number and boundaries of wards must be made by ordinance, and no new ward must be created unless there shall be within its boundaries one hundred and fifty electors or more.

Sec. 3343. On the first Monday of April of each year a municipal election must be held, at which the qualified electors of each town or city must elect a mayor and one alderman from each ward, to be voted for by the wards they respectively represent, the mayor to hold office for the term of one year, and until the qualification of his successor, and each alderman so elected to hold office for the term of two years, and until the qualification of his successor, and also in cities of the first class a police judge, a city treasurer, a city attorney, and a city marshal, who hold office for the term of one year and until the qualification of their successors, and in cities of the second class a police judge, a city treasurer and a city marshal, who hold office for the term of one year and until the qualification of their successors.

Sec. 3344. At the first annual election held after the organization of a city or town under this Title, the electors of such city or town must elect two aldermen from each ward, who must, at the first meeting of the council, decide by lot their terms of office, one from each ward to hold for a term of two years, and one for the term of one year, and until the qualification of their successors.

Sec. 3345. The terms of all officers elected at a municipal election are to commence on the first Monday in May after such election.

Sec. 3346. No person is eligible to any municipal office, elective or appointive, who is not a citizen of the United States, and who has not resided in the town or city for at least two years immediately preceding his election or appointment, and is not a qualified elector thereof.

Sec. 3347. The council must provide by ordinance for the registration of electors in any city or town, and may prohibit any person from voting at any election unless he has been registered; but such ordinance must not be in conflict with the general law providing for the registration of electors and must not change the qualification of electors except as in this Title provided.

Sec. 3348. All qualified electors of the State who have resided in the city or town for six months and in the ward for thirty days next preceding the election are entitled to vote at any municipal election.

Sec. 3349. The council must appoint judges and clerks of election and place of voting. There must be a place of voting in each ward, and an elector must vote in the ward in which he resides. The election precincts in a city or town must correspond with wards, and all elections must be conducted according to the general laws of the State.

Sec. 3350. On the Monday following any election the council must convene and publicly canvass the result, and issue certificates of election to each person elected by a plurality of votes. When two or more persons have received an equal and highest number of votes for any one of the offices voted for, the council must thereafter, at its first regular meeting, decide by vote between the parties which is elected. If the council from any cause fails to meet on the day named the mayor must call a special meeting of the council within five days thereafter, and in addition to the notice provided for calling special meetings, must publish the same on two successive days in some newspaper published in such city or town. If the mayor fails to call said meeting within said five days any three councilmen may call it. At such special meeting all elections, appointments, or other business may be transacted that could have been on the day first herein named.

Sec. 3351. Each officer of a city or town must take the oath of office, and such as may be required to give bonds, file the same, duly approved, within ten days after receiving notice of his election or appointment; or, if no notice be received, then on or before the date fixed for the assumption by him of the duties of the office to which he may have been elected or appointed; but if any one, either elected or appointed to office, fails for ten days to qualify as required by law, or to enter upon his duties at the time fixed by law, then such office becomes vacant; or if any officer absents himself from the city or town continuously for ten days without the consent of the council, or openly neglects or refuses to discharge his duties, such office may be by the council declared vacant; or if any officer removes from the city or town, or any alderman from his ward, such office must be by the council declared vacant.

Sec. 3352. The officers elected enter upon their duties the first Monday of May succeeding their election, and officers, appointed by the mayor, with the advice and consent of the council, within ten days after receiving notice of their appointment.

Sec. 3353. When any vacancy occurs in any elective office, the council, by a majority vote of the members, may fill the same for the unexpired term, and until the qualification of a successor. A vacancy in the office of alderman must be filled from the ward in which the vacancy exists. The council, upon written charges, to be entered upon their journal, after notice to the party and after trial, by a vote of two-thirds of all the members elect, may remove any officer.

Sec. 3354. It is the duty of the council to provide for the accountability of all officers provided for in this Title, by requiring from them sufficient security for the faithful performance of their duties or trust, which security must be given by them before entering upon their respective duties. If such security becomes insufficient, additional security may be required, and if not given within ten days, the council, by a vote of two-thirds of the members, may declare the office vacant, and may thereafter fill the same.

Sec. 3355. The city treasurer, city clerk, and city marshal, and such other city officers as the council by ordinance may require, must give official bonds in such sums and securities as the ordinance may prescribe, which bonds must be approved by the council and filed with the city clerk, except the bond of the city clerk, which must be filed with the city treasurer, and no officer must become surety upon the official bond of another.

Sec. 3356. The council must by ordinance, fix the salaries and compensation of the city officers, policemen, and other employes, which must not exceed the amount specified in this Title.

Sec. 3357. The annual salary of the mayor of a city of the first class must not exceed six hundred dollars per annum, and the aldermen must not be allowed exceeding one hundred dollars per annum. The mayor and aldermen of cities of the second class and towns, receive no salary or compensation.

Sec. 3358. The annual salary and compensation of police judges must be fixed by ordinance, and in a city of the first class must not exceed, for all services rendered, fifteen hundred dollars, and in a city of the second class must not exceed six hundred dollars per annum, and in addition a police judge is entitled to receive the fees which are now or may hereafter be allowed justices of the peace, in all civil cases, but in all criminal actions or proceedings arising under the criminal laws of the State, when acting as a justice of the peace or committing magistrate, he must receive no compensation whatever.

Sec. 3359. In towns the council may designate a justice of the peace of the township in which the town is situated to act as police judge, and may by ordinance fix his compensation for his services, not exceeding one hundred dollars per annum, and the justice of the peace so designated must act as a police judge in all cases arising out of violation of ordinances where the town is a party.

Sec. 3360. The annual salary and compensation of the treasurer must be fixed by ordinance, and must be for all services rendered by such treasurer in any capacity, and no treasurer must be allowed any percentages or fees in addition thereto. In cities of the first class it must not exceed two thousand dollars, in cities of the second class it must not exceed one thousand dollars, and in towns it must not exceed five hundred dollars.

Sec. 3361. The annual salary and compensation of the city attorney must be fixed by ordinance, and must not exceed two thousand dollars for all services rendered in any capacity, and no fee, percentage or additional compensation must be given to or allowed him.

Sec. 3362. The annual salary and compensation of the city marshal must be fixed by ordinance, and must not exceed, in cities of the first class, two hundred dollars per month, in cities of the second class, must not exceed one hundred and fifty dollars per month, and in towns must not exceed one hundred dollars per month, and no fees, percentage or additional compensation must be given to or allowed him.

Sec. 3363. The annual salary and compensation of the city clerk must be fixed by ordinance, and in a city of the first class must not exceed twelve hundred dollars, which is for all services rendered by him in any capacity, and in cities of the second class must not exceed twelve hundred dollars, which includes services rendered by him as city attorney and in any capacity, and in towns must not exceed one hundred dollars, which includes all services rendered by him in any capacity.

Sec. 3364. The salary and compensation of an officer must not be increased or diminished during his term of office.

Sec. 3365. No alderman must be appointed to any office of a town or city, nor for one year after the termination of his office, nor must any person holding office under the laws of the State or of the United States hold office under this Title, or the ordinances of any city or town, except as provided in this Title.

Sec. 3366. Before entering upon office all officers elected or appointed must take and subscribe the constitutional oath of office.

ARTICLE III.

EXECUTIVE POWERS.

Section 3375. Executive officers.
" *3376. Powers of mayor.*
" *3377. Mayor to preside, sign warrants, etc.*
" *3378. Council to elect president.*

Section 3379. Duties of clerk.
" *3380. Duties of marshal.*
" *3381. Duties of city attorney.*
" *3382. Duties of treasurer.*
" *3383. Duties of other officers, compensation.*

Sec. 3375. The executive officers of a city or town are the mayor, marshal, and such officers for the assessment, collection, auditing, safe keeping, and disbursing the revenue, and keeping the records aud journals of the city or town, as the council may provide.

Sec. 3376. The mayor is the chief executive officer of the city or town, and has power:

1. To nominate, and with the consent of the council, to appoint all non-elective officers of the city or town, provided for by the council, except as provided in this Title.

2. To suspend, and with the consent of the council, to remove any non-elected officer, stating in the suspension or removal the cause thereof.

3. To cause the ordinances of the city or town to be executed, and to supervise the discharge of official duty by all subordinate officers.

4. To communicate to the council, at the beginning of every session, and oftener if deemed necessary, a statement of the affairs of the city or town, with such recommendations as he may deem proper.

5. To recommend to the council such measures connected with the public health, cleanliness, and ornament of the city or town, and the improvement of the government and finances, as he deems expedient.

6. To approve all ordinances and resolutions of the council adopted by it, and in case the same do not meet his approbation, to return the same to the next regular meeting of the council, with his objections in writing, and no ordinance or resolution so vetoed by the mayor, must go into effect unless the same be afterwards passed by a two-thirds vote of the whole number of the members of the council.

7. The mayor may veto any objectionable part of a resolution or ordinance, and approve the other parts.

8. If the mayor fail to return any resolution or ordinance as aforesaid, the same takes effect without further action.

9. To call special meetings of the council, and when so called he must state by message the object of the meeting, and the business of the meeting must be restricted to the object stated.

10. To cause to be presented, once in three months, a full and complete statement of the financial condition of the city or town.

11. To bid in for the city or town any property sold at a tax or judicial sale, where the city or town is a party, or interested.

12. To procure and have in his custody the seal of the city or town.

13. To take and administer oaths.

14. To call on every male citizen of the city or town, over the age of eighteen years, to aid in the enforcement of the laws and ordinances in case of riots; to call out the militia to aid him in suppressing the same or other disorderly conduct, preventing and extinguishing fires, for securing the peace and safety of the city, or for carrying into effect any law or ordinance; and any person who does not obey such call forfeits to the city or town a fine not exceeding twenty-five dollars.

15. To require of any of the officers of a city or town an exhibit of his books and papers.

16. He has such power as may be vested in him by ordinance of the city or town, in and over all places within five miles of the boundaries of the city or town for the purpose of enforcing the health and quarantine ordinances and regulations thereof.

17. The mayor may grant pardons and remit fines and forfeitures for offenses against city or town ordinances, when in his judgment public justice would be thereby subserved, but he must report all pardons granted, with the reasons therefor, to the next council.

18. To perform such other duties as may be prescribed by law or by resolution or ordinance of the council.

Sec. 3377. The mayor is the presiding officer of the council, and must sign the journals thereof and all warrants on the city treasurer, and decide by his vote all ties, and has no other vote.

Sec. 3378. The council may elect a president, who, in the absence of the mayor, is the presiding officer, and may perform the duties of mayor, and in the absence of the president the council may appoint one of its number to act in his place.

Sec. 3379. It is the duty of the clerk:

1. To attend all meetings of the council, to record and sign the proceedings thereof and all ordinances, by-laws, resolutions and contracts, passed, adopted or entered into, and to sign, number and keep a record of all licenses, commissions, or permits granted or authorized by the council.

2. To enter in a book all ordinances, resolutions and by-laws passed and adopted by the council. Such book is called "The Ordinance Book."

3. To enter in a book kept for that purpose the date, amount and person in whose favor and for what purpose warrants are drawn upon the city treasury; such book is called "The Finance Book."

4. To countersign and cause to be published or posted as provided by law all ordinances by laws or resolutions passed and adopted by the council.

5. To file and keep all records, books, papers or property belonging to the city or town and to deliver the same to his successor when qualified.

6. To make and certify copies of all records, books and papers in his possession, on the payment of like fees as are allowed county clerks, which fees must be paid into the city treasury.

7. To give notice of all elections as required by law, and to notify all persons of their election or appointment to office.

8. To make and keep a complete index of the journal ordinance book, finance book and all other books and papers on file in his office.

9. To perform such duties in and about the assessment, levy and collection of taxes and assessments as may be prescribed by law or ordinance.

10. To take and administer oaths, but must not charge or receive any fees therefor.

11. To certify to the county clerk within ten days after their election and qualification, the names and terms for which they are elected, of the mayor, city clerk and city treasurer.

12. To perform such other and further duties as the council may prescribe.

Sec. 3380. It is the duty of the marshal:

1. To execute and return all process issued by the police judge or directed to him by any legal authority, and to attend upon the police court regularly.

2. To arrest all persons guilty of a breach of the peace or for the violation of any city or town ordinance, and bring them before the police judge for trial.

3. To have charge and control of all policemen subject to such rules as may be prescribed by ordinance, and to report to the council all delinquencies or neglect of duty or official misconduct of policemen for action of the council.

4. The marshal has the same powers as a constable in the discharge of his duties, but he must not serve a process in any civil action or proceeding except when a city or town is a party.

5. To perform such other duties as the council may prescribe.

Sec. 3381. It is the duty of the city attorney:

1. To attend before the police court and other courts, and prosecute in behalf of the city, and to attend to all suits, matters and things in which the city may be legally interested.

2. To give his advice or opinion in writing when required by the mayor or council, and to do all such things touching his office as the council may require, or any ordinance may prescribe. The council may employ other or additional attorneys or counsel in special cases, and provide for the payment for their services.

3. To draw for the use of the council any contract, resolution, or ordinance.

4. To perform such other and further duties as the council may prescribe.

Sec. 3382. It is the duty of the treasurer:

1. To receive all moneys that come to the city or town, either from taxation, or otherwise, and to pay the same out on the warrant of the mayor, draw in accordance with law.

2. To perform such duties in the collection of taxes, licenses, or assessments, as are or may be prescribed by law or ordinance.

3. To present on the first Monday of each month to the council, a full and detailed statement of the amounts of money belonging to the city or town received by him, and by him disbursed during the preceding month, and the state of each particular fund, which statement must be verified by his oath.

4. To keep the books and accounts of the city in such a manner as to correctly present the condition of the city finances, which must always be open to the inspection of the mayor, council, or any member thereof.

5. To keep a separate account of each fund or appropriation and the debts and credits thereof.

6. To give every person paying to him money as treasurer a receipt therefor, specifying the date of payment, the amount and for what paid.

7. To render at any time an account to the council showing the money on hand and the condition of the treasury.

8. To keep a register of all warrants paid, called the "Registry Book," which must show the date, amount and number, and the person to whom, and the fund from which the same was paid, and to deliver and file with the city clerk, all vouchers, warrants or orders paid by him.

9. To annually make out and submit to the council at its last meeting prior to the annual election, a detailed account of all receipts and expenditures during the past fiscal year, file the same with the clerk, and an abstract thereof must be published in some newspaper in the city or town, or if none is published such abstract must be posted in the room or building occupied by the council.

10. To pay out in the order in which they are drawn all warrants presented for payment, when there are funds in the treasury to pay the same, and not otherwise.

11. No money must be transferred from one fund to another except by ordinance or resolution of the council.

12. The treasurer must not make a profit out of public moneys in his hands, nor must he use the same for any purpose not authorized by law. He must not deposit such moneys in a bank, or in any other place on a general deposit in his own name or otherwise, but in all cases must make a special deposit in his own name as treasurer.

Sec. 3383. The duties and compensation of the street commissioners, chief of the fire department, city surveyor and other city officers not provided in this Title may be prescribed by ordinance.

ARTICLE IV.

LEGISLATIVE POWERS.

Section 3390. Powers of the council.
" 3391. What constitutes a quorum.
" 3392. May prescribe rules.
" 3393. Ayes and noes must be called, and a majority elects.
" 3394. Style of ordinance.
" 3395. Ordinances, how prepared.
" 3396. Officers must not be interested in contracts.
" 3397. Contracts must be let to lowest bidder.
" 3398. Contractor, oath of.
" 3399. Alteration and modification of contract, how made.
" 3400. No allowance for extra work.
" 3401. Accounts must be allowed.
" 3402. Accounts must be itemized and sworn to.
" 3403. Indebtedness not to exceed amount in fund.
" 3404. Special privilege must not be granted.
" 3405. Annual tax not to exceed a certain sum.
" 3406. Special taxes and assessments.
" 3407. May appoint chief engineer, etc., of fire department.

Sec. 3390. The city or town council has power:

1. To make and pass all by-laws, ordinances, orders, and resolutions not repugnant to the Constitution of the United States, or of the State of Montana, or of the provisions of this Title, necessary for the government and management of the affairs of a city or town, for the execution of the powers vested in the body corporate, and for carrying into effect the provisions of this Title.

2. To levy and collect taxes for general and special purposes on all property within the town or city subject to taxation under the laws of the State.

3. To license all industries, pursuits, professions, and occupations for which, under the State law a license is required, but the amount to be paid for such license must not exceed the sum required by the State law.

4. To fix the amount, terms, and manner of issuing and revoking licenses, subject to the State law, but the council may refuse to issue a license when it is best for the public interest.

5. To build or hire all necessary buildings for the use of the city or town, and to heat and light the same.

6. To lay out, establish, open, alter, widen, extend, grade, pave or otherwise improve streets, alleys, avenues, sidewalks, parks and public grounds, and vacate the same.

7. To provide for lighting and cleaning the streets, alleys, avenues; to regulate the use of sidewalks, and to require the owners of the premises adjoining to keep the same free from snow or other obstruction, to regulate the depositing of ashes, garbage or other offensive matter, in any street, alley, or on public grounds or on any premises.

8. To provide for and regulate street crossings, curbs and gutters; to regulate and prevent the use or obstruction of streets, sidewalks and public grounds, by signs, poles, wires, posting hand bills or advertisements, or any obstruction.

9. To regulate and prohibit traffic and sales upon the streets, sidewalks and public grounds.

10. To regulate or prohibit the fast driving of horses, animals or vehicles within the city or town.

11. To regulate and control the laying of railroad tracks, and prohibit the use of engines and locomotives propelled by steam or otherwise, or to regulate the speed thereof when used.

12. To require the lighting of any railroad track or route within a city or town, the cars of which are propelled by steam or otherwise, and fix and determine the number, style and size of the lamp posts, burners, lamps, and all other fixtures and apparatus necessary for such lighting, and the points of location of the lamp posts, and in case the owner of such railroad fails to comply with such requirements, the council may cause the same to be done, and may assess the expense thereof against such owner, and the same constitutes a lien on any property belonging to such owner within such city or town, and may be collected as taxes.

13. To license and authorize the construction and operation of street railroads and require them to conform to the grade of the streets as the same are or may be established.

14. To regulate the numbering of houses and lots and to change the same.

15. To provide for the cleaning of waters, water courses and streams within the city, or to alter, straighten, or widen the same, and the draining and filling in of ponds, wells or shafts on private property when necessary to the public health or public welfare.

16. To license, tax and regulate auctioneers, peddlers, pawnbrokers, second hand and junk shops, drivers, porters, saloons, billard tables, ten-pin alleys, shooting galleries, shows, circuses, theatrical performances and places of amusement within the limits of the city or town.

17. To require the keepers and owners of pawn, second hand and junk shops, to keep a record of all articles, purchased

or pawned to them, which record, and the articles purchased or pawned, are subject to the inspection of the city marshal.

18. To prevent the keepers of pawn, second hand and junk shops from purchasing any article from a minor without the written consent of the parent or guardian of such minor.

19. To regulate or prohibit dance houses, gambling houses, hurdy gurdy houses, houses of prostitution, houses of lewd resort, or other places by whatever name called, of public resort where females act as waitresses or servants, and where spirituous or vinous liquors are retailed.

20. To suppress and punish all fraudulent devices and practices for the purpose of obtaining money or property, and to prohibit the sale or exhibition of immoral publications, prints, pictures, or illustrations.

21. To establish markets and market houses, and provide for the supervision and use thereof.

22. To provide for and regulate the inspection of beef, pork, flour, meal, and all provisions, oils, whiskey, and other spirits in barrels, hogsheads, and other vessels: to regulate the inspection of milk, butter, lard, and other provisions; to regulate the vending of meat, poultry, fish, game, and vegetables; to restrain and punish the forestalling provisions.

23. To regulate the inspection, weighing and measuring of wood, coal, stone, corn, or other grain, and hay, within the city or town.

24. To regulate the construction, use, repair of vaults, cisterns, hydrants, pumps, sewers, and gutters.

25. To prevent and punish intoxication, fights, riots, loud noises, disorderly conduct, obscenity, and acts or conduct calculated to disturb the public peace, or which are offensive to public morals within the city or town.

26. For the purpose of guarding against fire, to prescribe the limits within which wooden or combustible buildings must not be erected, placed, or repaired, and to establish fire limits within the city or town.

27. To establish a fire department and prescribe and regulate its duties; to maintain a fire alarm and police telegraph.

28. To erect engine, hose, and hook and ladder houses, and provide engines and other implements for the extinguishment of fire.

29. To inspect chimneys, flues, fireplaces, stove pipes, boilers, and when dangerous to require the same to be removed or put in order.

30. To regulate and prevent the storage or handling of gunpowder, giant powder, nitro glycerine, or other inflamable explosives or materials, tar, pitch, kerosene, oil and turpentine, and to prohibit the storage of the same within three miles of the city limits.

31. To regulate or prohibit the building of bonfires, the explosion, use, or selling of fireworks, firecrackers, torpedoes, or

other pyrotechnics, or toy pistols, or guns, within the city or town.

32. To prohibit and punish cruelty to animals.

33. To define and abate nuisances and to impose fines upon persons guilty of creating, continuing, or suffering a nuisance to exist on the premises which they occupy or control.

34. To restrain and punish vagrants, mendicants, and persons guilty of disorderly conduct.

35. To establish and maintain a jail for the confinement of persons convicted of violating the ordinances of the city or town, and to make rules for the government of the same and appoint a jailer therefor, and to cause prisoners to work on the streets.

36. To regulate, restrain, or prohibit the running at large of horses, cattle, swine, sheep, goats and dogs, or other animals, and to authorize the impounding and sale thereof, if found at large contrary to ordinance.

37. To license the keeping of dogs, and provide for the killing or destruction thereof, if found running at large without license.

38. To prevent the encumbering of streets, sidewalks, alleys, or public grounds with carriages, wagons, lumber, firewood, or other obstacles or materials.

39. To prevent the riding or driving of animals, or the drawing of vehicles of any kind on the sidewalks of the city, or the doing damage in any way to the sidewalks.

40. To prevent horse racing, or the immoderate riding or driving in the streets of the city or town, and to provide for the hitching of all animals on the street when the owner is absent.

41. To regulate or prohibit coasting, skating, sliding, or tobogganing on the streets or alleys, or the indulgence in other amusements dangerous or annoying to the inhabitants, or having a tendency to frighten animals.

42. To regulate the location of slaughter houses, breweries, distilleries, livery stables, foundries, blacksmith shops, planing mills, soap factories and tanneries within the city or town, and to prohibit any offensive and unwholesome establishment within three miles of the town or city.

43. To regulate or suppress the erection of poles and the stringing of wires, rods or cables in the streets, alleys, or within the limits of any city or town.

44. To appoint a board of health and prescribe its powers and duties.

45. To establish at a suitable place without the limits of the city or town, in case of necessity, a hospital to prevent the spread of small-pox or other contagious or infectious diseases, and to regulate the control thereof, and do all other acts which may be necessary for the promotion of health, and to

prevent the spread of infectious or contagious diseases within the city or town.

46. To establish and regulate cemeteries within or without the city or town, and acquire lands for this purpose, and prohibit the establishment of cemeteries within three miles of the city or town.

47. To appoint necessary policemen, watchmen, and other subordinate officers, created by ordinance, and to fix their compensation, and to prescribe the duties of all officers or other employes of the city or town, and fix their compensation subject to the limitations mentioned in this Title.

48. To impose fines and penalties for the violation of any city ordinance, but no fine or penalty must exceed three hundred dollars, and no imprisonment must exceed ninety days for any one offense.

49. To levy and collect annually from each able bodied male citizen resident of the city or town, between the ages of twenty-one and forty-five years, a poll tax not exceeding three dollars per capita; and in case of failure or refusal of any person within the prescribed age to pay said tax, to provide by ordinance that the person failing or refusing must work one day on the public streets of the city.

50. To regulate partition fences and party walls.

51. To prescribe the thickness, strength, and manner of constructing stone, brick and other buildings, and to order the construction of fire escapes thereon.

52. To use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law, and with the consent of the Board of County Commissioners.

53. To erect and organize a work house in or near a city or town; and any person who fails or neglects to pay any fine or costs imposed on him by any ordinance may be committed to the work house until such fine is paid.

54. To license and regulate hackney carriages, carts, omnibusses, wagons and drays, and to fix the rate to be charged for the carriage of persons and of property within the city or town, and to the public works and property without the limits of the city or town.

55. To regulate, restrain or prevent the carrying on of manfactories dangerous in causing or producing fires, and to prevent and suppress the sale of firearms and carrying of concealed weapons.

56. To establish standard weights and measures to be used in the city, and to appoint a sealer of standard weights and measures, who has exclusive jurisdiction within the city or town.

57. To provide for the inspection and measuring of lumber and other building material.

58. To make regulations authorizing the police of the city

or town to make arrests of persons charged with crime without the limits of the city or town and within five miles thereof.

59. To provide for the planting of trees and the protection of the same.

60. To require from an officer at any time a report in detail of the transactions in his office or any matter connected therewith.

61. To regulate the sales of poisons, and to punish any person for selling or using opium or any preparation thereof, or having the same or any implement to be used in smoking it in his possession, or for keeping, maintaining, visiting, or contributing to the support of a room or place where the same is smoked or used. Druggists may sell opium or any preparation thereof, subject to the general laws of the State in relation thereto.

62. To sell, dispose of, or lease any property belonging to a city or town not held in trust for a specific purpose, and such transfer must be made by ordinance or resolution passed by a two-thirds vote of all the members of the council.

63. To make any and all contracts necessary to carry into effect the powers granted by this Title, and to provide for the manner of executing the same.

64. To contract an indebtedness on behalf of the city or town upon the credit thereof, by borrowing money or issuing bonds for the following purposes, to-wit: Erecting public buildings, sewers, bridges, water works, supplying the city or town with water by contract, the purchase of fire apparatus, the construction or purchase of canals or ditches for supplying the city or town with water. The total amount of indebtedness authorized to be contracted in any form must not at any time exceed three per centum of the total assessed valuation of the taxable property of the city or town, as ascertained by the last assessment for State and county taxes. No money must be borrowed or bonds issued for any of the purposes mentioned in this clause until the proposition has first been submitted to a vote of the qualified electors of the city or town, and a majority vote cast in favor thereof.

65. To regulate and provide for the construction or repair of sidewalks and foot pavements, and if the owner of any lot fails to comply with the provisions of the ordinance within such time as may be prescribed thereby, the council may contract for the construction and repair of such sidewalks or pavements, and the city or town may pay for the same, and the amount so paid is a lien upon the lot, and may be enforced or the amount may be recovered against the owner by a suit before any court of competent jurisdiction.

66. To grant the right of way through the streets, avenues and other property of a city or town for the purpose of street or other railroads, and to regulate the running and management of the same, and compel the owner of such street or

other railroad to keep the street in repair when occupied by such street or other railroad; to regulate the speed of railroad engines, and to require railroad companies to station flagmen at street crossings.

67. To compel the owner of a building to erect fire escapes and proper exits and entrances when necessary for safety.

68. To establish the grade of any street, alley, or avenue, and when the grade has been established, it must not be changed except by a vote of two-thirds of the council, and not then until the damages to property owners, caused by the change of grade, has been assessed and determined by three disinterested appraisers, who must be appointed by the mayor and confirmed by the council, who must make an appraisment, taking into consideration the benefits, if any, to the property, and file their report with the clerk within ten days after receiving notice of their appointment, and the amount of damages so assessed must be tendered to the owner or his agent before any change of grade is made.

69. To provide for the sprinkling of the streets of the city or town, but in all cases the tax for the same must be a special one upon the property abutting upon the street sprinkled, and all such property must pay the same rate of tax per front foot.

70. To regulate the location of steam boilers, the putting up of signs and awnings, and the construction of entrances to basements, cellars, and other floors to buildings from the sidewalks.

71. To prevent prize fights, boxing matches of any kind, with or without gloves, or exhibitions of prize fighters, boxers or sluggers in the town or city, or within five miles thereof.

72. To require the owner of a sidewalk, house, or other structure, which is dangerous to passers by, to repair or remove the same after notice.

73. To permit the use of streets and alleys of the city or town for the purpose of laying down gas, water and other mains, but no excavation must be made for such purpose without the permission of the council, and the streets and alleys must be placed in as good condition by the person making the excavation as they were before the excavation was made, and the mains laid down, and in default thereof the council may order the same to be done at the expense of such person.

74. To provide for inclosing, improving and regulating all public grounds belonging to the city or town.

75. To condemn private property for opening, establishing, widening or altering any street, alley, park, sewer, waterway, in the town or city, or for any other public use, and the ordinance authorizing the taking of private property for any such use is conclusive as to the necessity of the taking, and must conform to and the proceedings thereunder had, as provided in Title VII., Part III., of the Code of Civil Procedure concerning eminent domain.

76. To appropriate money and provide for the payment of the debt and expenses of the city or town, and also the debt of the municipal corporation of which it is the successor.

77. To take a census of the inhabitants of a town or city at any time.

78. To provide for the city or town printing, the contract for which must be let annually to the lowest bidder.

79. To adopt, enter into, and carry out means for securing a supply of water for the use of a city or town or its inhabitants.

80. To perform any or all acts necessary to carry out any of the provisions of this Title.

Sec. 3391. A majority of the members of the council constitute a quorum for the transaction of business, but a less number may meet and adjourn to any time stated, and may compel the attendance of absent members under such rules and penalties as the council may prescribe.

Sec. 3392. The council may determine the rules of its proceedings, punish its members for improper conduct, and expel any member for the same by a two-thirds vote of the members elected, and must cause to be kept a journal of the proceedings, which must be open to inspection.

Sec. 3393. The ayes and noes must be called and recorded on the final passage of any ordinance, by-law, or resolution, or in making any contract, and the voting on the election or appointment of any officer must be *viva voce*, and a majority of the whole number of the members elected is requisite to appoint or elect an officer, and such vote must be recorded.

Sec. 3394. The style of ordinances may be as follows: "Be it ordained by the council of the city of——, or town of——," and all ordinances may be published or posted, as prescribed by the council.

Sec. 3395. All ordinances, by-laws and resolutions must be passed by the council and approved by the mayor, or the person acting in his stead, and must be recorded in a book kept by the clerk called "The Ordinance Book," and numbered in the order in which they are passed, and take effect from and after their passage, except as otherwise ordered.

Sec. 3396. The mayor, or any member of the council, or any city or town officer, or any relative or employe thereof, must not be directly or indirectly interested in the profits of any contract entered into by the council while he is or was in office.

Sec. 3397. All contracts for work or for supplies or material for which must be paid a sum exceeding fifty dollars, must be let to the lowest responsible bidder, under such regulations as the council may prescribe.

Sec. 3398. No money must be paid to any person claiming under a contract with the council, until such person has first filed with the clerk a statement, under oath, disclosing the names of all persons directly or indirectly interested in the contract, or the proceeds or profits thereof, declaring that no persons other than those named are interested, and that no person forbidden by this Title has any interest in the same.

Sec. 3399. When it becomes necessary in the prosecution of any work to make alterations or modifications or specifications or plans of a contract, such alteration or modification must only be made by resolution of the council, and such resolution is of no effect until the price to be paid for the same is agreed to in writing, and signed by the contractor and approved by the council.

Sec. 3400. No contractor must be allowed anything for extra work, caused by an alteration or modification unless a resolution is made and an agreement signed as provided in the preceding section, nor must he, in any case, be allowed more for such alteration than the price fixed by such agreement.

Sec. 3401. All accounts and demands against a city or town must be submitted to the council, and if found correct, must be allowed, and an order made that the demand be paid, upon which the mayor must draw a warrant upon the treasurer in favor of of the owner, specifying for what purpose and by what authority it is issued, and out of what fund it is to be paid, and the treasurer must pay the same out of the proper fund.

Sec. 3402. All accounts and demands against a city or town must be presented to the council, duly itemized and accompanied by an affidavit of the party or his agent, stating the same to be a true and correct account against the city or town for the full amount for which the same is presented, and that the same accured as set forth, and with all necessary and proper vouchers, within one year from the date the same accrued; and any claim or demand not so presented within the time aforesaid is forever barred, and the council has no authority to allow any account or demand not so presented, nor must any action be maintained against the city or town for or on account of any demand or claim against the same, until such demand or claim has first been presented to the council for action thereon.

Sec. 3403. The council must not create, audit, allow, nor permit to accrue any debts or liabilities above the actual revenue and available means in the treasury that may be legally apportioned for such purpose, nor must any warrant be drawn, or evidence of indebtedness be issued, unless there is sufficient money in the treasury justly applicable to meet the same.

Sec. 3404. The council must not grant a franchise or special privilege to any person, and its powers are those only prescribed in this Title and those necessarily incident thereto.

Sec. 3405. The amount of taxes to be assessed and levied for general municipal or administrative purposes must not exceed one per centum on the assessed value of the taxable property of the city or town, and the council may distribute the money collected into such funds as are prescribed by ordinance.

Sec. 3406. The council may also assess and levy the special taxes or assessments provided for in this Title.

Sec. 3407. The council of any city or town where there is no paid fire department may appoint a chief engineer of the fire department, to manage and control the fire engines and apparatus furnished by the city or town for the extinguishing and the prevention of fires, to superintend and direct all fire companies, and to examine and inspect all buildings, chimneys, flues and boilers, and other things within the city or town, and require the same to be put in a safe condition or removed, if liable to cause fire. In case a paid fire department is established in any city or town, the council may by ordinance provide for the maintenance of the same and the employment of the officers and employes thereof.

ARTICLE V.

TAXATION—ASSESSMENTS FOR IMPROVEMENTS—LICENSES.

Section 3415. *Annual tax, equalization and collection.*
" 3416. *Levy, etc., to be made under this Article.*
" 3417. *Basis of taxation.*
" 3418. *Duty of county assessor.*
" 3419. *County assessor must pay over taxes collected.*
" 3420. *Equalization of taxes.*
" 3421. *Affidavit of aggrieved party.*
" 3422. *Duty of the county clerk, duplicate assessment book.*
" 3423. *How furnished and form of.*
" 3424. *County clerk must deliver book and affidavit attached.*
" 3425. *City or town treasurer must collect tax from book.*
" 3426. *Power of the city or town treasurer to collect.*
" 3427. *Tax levy to be made, when.*
" 3428. *Fiscal year.*
" 3429. *Annual appropriation, when and how made.*
" 3430. *Road poll tax.*
" 3431. *Poll tax, how levied and collected.*
" 3432. *Duties of the clerk and treasurer.*
" 3433. *Poll tax, how expended.*
" 3434. *Work on the streets, etc.*
" 3435. *System of street work.*
" 3436. *Same.*
" 3437. *Special assessment for same, how collected.*
" 3438. *Cost of public improvements, how apportioned.*
" 3439. *Opening and grading alleys, how paid for.*

Section 3440. Opening and grading streets, how apportioned.
" 3441. How paid for.
" 3442. Cost of paving, curbing sidewalk, etc., how apportioned and paid.
" 3443. When to be paid out of the general fund.
" 3444. Special taxes or assessments, how levied and collected.
" 3445. When collected and by whom.
" 3446. Treasurer must make settlement.
" 3447. Sewer system.
" 3448. Public sewers, how established and constructed.
" 3449. District sewers, how established.
" 3450. District sewers, how constructed and cost apportioned.
" 3451. Private sewers, regulations for.
" 3452. Sewer taxes, how listed and collected.
" 3453. Taxes for paying for private property taken for public use, how paid.
" 3454. Construction of bridges, how paid.
" 3455. License tax may be levied.

Sec. 3415. The council has power to levy, collect and equalize annually taxes on all the property in the city or town taxable for State and county purposes, and may by ordinance provide for the levy, assessment, equalization and collection of the same.

Sec. 3716. Until the passage of such ordinance the levy, assessment, equalization and collection of municipal taxes are, and the proceedings for such purposes must be, as provided in this Article.

Sec. 3417. The assessment made by the county assessor for State and county purposes is the basis of taxation for cities and towns for the property situated therein.

Sec. 3418. It is the duty of the county assessor, in making the assessment book, to designate therein the real and personal property, stating each separately and distinctly, situated in the cities and towns within the county.

Sec. 3419. The county assessor must pay over to the city or town treasurer all city or town taxes on personal property collected by him, taking a receipt in duplicate therefor, one of which must be filed with the city or town clerk and the other with the county clerk.

Sec. 3420. The equalization of assessments of property made by the County Board of Equalization applies to the assessment of property in any city or town, and must be taken as the equalization thereof. But the council may at any time after the adjournment of said board, upon good canse shown, reduce the city or town taxes or penalties thereon as is just and equitable, or order any tax that has been improperly assessed or paid by mistake, to be refunded.

Sec. 3421. The person aggrieved must first make an affidavit stating the facts, which must be filed with the clerk.

Sec. 3422. It is the duty of the county clerk, on or before the first Monday in October, to make a duplicate of the "Corrected Assessment Book" for each town or city in the county. Such book is styled, "The Duplicate Assessment Book for the City of ———, or "Town of ———," and must contain a copy of the "Corrected Assessment Book" for such town or city.

Sec. 3423. Such duplicate must be made in a book furnished by the city or town clerk of each city or town in the county, and ruled in columns specifying the different funds, so that the city or town treasurer may extend the same and collect the taxes.

Sec. 3424. The county clerk must deliver such duplicate assessment book to each town or city treasurer, and take his receipt therefor, having attached thereto the affidavit similar to the one set out in Section 2535, of this Code.

Sec. 3425. The city or town treasurer must collect taxes from such book in the same manner as the county treasurer collects the State or county taxes.

Sec. 3426. The city or town treasurer has the same power to collect municipal taxes as the county treasurer has to collect State and county taxes, and has the same right to give notices, add penalties, seize and sell property for delinquent taxes, to give deeds to purchasers, and to do everything that a county treasurer might do in the premises, as provided in Chapter VII., Title IX., Part III., of this Code, except that he must make settlements with the city or town council, and all property sold for delinquent taxes must be bid in for the city or town.

Sec. 3427. The council must, on the second Monday in August in each year, by resolution, determine the amount of city or town taxes for all purposes, to be levied and assessed on the taxable property in the town or city for the current year, and the city clerk must at once certify to the city treasurer a copy of such resolution, and the city treasurer must collect the taxes as in this Article provided.

Sec. 3428. The fiscal year of cities or towns begins on the first Monday of April in each year, unless a different day is fixed by ordinance.

Sec. 3429. The council must, in the last quarter in each fiscal year, pass an ordinance to be known and termed the "Annual appropriation for the city of——, or town of——, for the year 18——," in which ordinance there must be appropriated enough money to defray the expenses or liabilities of the city or town for the ensuing fiscal year, and there must be specified therein the amount appropriated for each separate object or fund, and the salary or compensation to be paid each officer of the city or town.

Sec. 3430. All able-bodied male inhabitants of a city or town, between the ages of twenty-one and forty-five years, must pay an annual road poll tax not exceeding three dollars.

Sec. 3431. On or before the first Monday of May, each year, the city clerk must make a list of all persons liable for such tax, and present the same to the council for inspection and correction. On or before the first Monday of June the council must direct a copy of such list, as corrected, certified by the clerk, to be delivered to the city treasurer, who must forthwith collect such tax from the persons named in the list, and such other persons as may be added thereto. Any person whose name is on the "Corrected Assessment Book" may pay such poll tax at the time he pays his general tax.

Sec. 3432. The city or town clerk, in making such list, and the city or town treasurer, in collecting such tax, have the same power in reference thereto as the county assessor has in assessing and collecting the poll tax, provided for in Chapter X., Title IX., Part III., of this Code, Sections 2638 to 2661, inclusive.

Sec. 3433. The money so collected must be expended for street purposes in the city or town. No street or alley in a city or town is a county road or a part thereof, nor constitutes a part of a road district of a county.

Sec. 3434. The council has power to order any work provided in this Title, to be done upon the streets, alleys or public places of a city or town.

Sec. 3435. The council is authorized to provide, by ordinance, a system for doing any or all work in or upon the streets, highways, and public places of the city or town, and for making therein street improvements and repairs, and for doing any or all work authorized by this Title, and for the payment of the cost and expenses thereof, either by the levy and collection of special assessments therefor, in proportion to benefits, upon the property to be benefited thereby, or by payments made out of the road fund of the city or town, or by both. In all cases where more than one-half of the expense of any such improvement is to be defrayed by special assessment, the council must first adopt a resolution declaring its intention to make such improvement, and fixing a time at which objections to the making of such improvement will be considered.

Sec. 3436. The resolution must designate the boundaries of the district to be affected or benefited by such improvement. Upon adopting such resolution the council must give notice of such intention, which notice must be published for ten days in a newspaper printed and published in the city or town, or posted for ten days in three public places in the city or town. Such notice must describe the improvement so proposed to be made, and state the estimated cost thereof, and designate the time set for such hearing, and shall refer to the resolution entered upon the journal of the council for the description of boundaries. If, at or before the time so fixed, written objections to such improvement, signed by the owners of two-thirds in value of the property so to be affected or benefited, as shown by the last preceding city or town assessment book; be not filed with the clerk, the council acquires jurisdiction to order the making of such improvement.

Sec. 3437. Any such special assessment made and levied to defray the cost and expenses of any such work, together with any percentage imposed for delinquency and the costs of collection, constitute a lien upon and against the property upon which such assessment is made and levied, from and after the date of the order for such assessment; which lien may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by an action in any court of competent jurisdiction to foreclose such lien: but any property sold to satisfy any such lien shall be subject to redemption within the time and in the manner provided, or that may hereafter be provided by law for the redemption of property sold for taxes.

Sec. 3438. The cost of making public improvements within the city or town must be apportioned as follows: For the making of crosswalks and the repairs of all streets and highways, and cleaning the same, and the cleaning of all alleys and crosswalks, and the paving of streets at their intersection, must be paid out of the general fund of the city or town.

Sec. 3439. The opening or grading of any alley must be paid by the property adjoining the alley in the particular block in which the alley is opened, and the cost of opening the same must be estimated and apportioned equally to each front foot of property adjoining the alley.

Sec. 3440. The opening and grading of a street must be paid for as follows: The council must determine what section of such street must pay the cost of such opening or grading, and must apportion the cost to such section. Property abutting on the street in any one block must be assessed equally for each front foot on the street, but the council may assess different sums to each block in the section, as may be just and equitable.

Sec. 3441. The cost of opening or grading a street must be borne as follows: Twenty-five per cent. of the whole cost out of the general fund of the city or town; the remainder must be paid by the section of street designated by the council, and the amount assessed to each parcel of property is a special tax upon the parcel of property so assessed.

Sec. 3442. The cost of paving, curbing, guttering, sidewalk and all material for the roadways or the sidewalks, must be charged upon the adjoining or abutting property as a special tax or assessment, and collected and paid as hereinafter provided.

Sec. 3443. Whenever the estimated special taxes or assessments, for paving, curbing, guttering or sidewalks, to be assessed against any property in the aggregate, amounts to more than twenty-five per cent. of the assessed value of the property, then the council must provide out of the general fund for the payment of the amount in excess of said twenty-five per cent.

Sec. 3444. All special taxes or assessments levied upon any lot or parcel of land for the opening or grading of any street or alley, or for paving, curbing, guttering or laying sidewalks on any street, must be listed by the city clerk, and the list must contain the name of the owner, description of the lot, and the amount of special tax or assessment due. A copy of such list certified by the clerk must be delivered to the city treasurer, and within five days of the receipt thereof the treasurer must notify each owner of the property of the amount of the tax, specifying in the notice the purposes for which the tax was levied, and the lot against which it is levied and the amount of the tax.

Sec. 3445. The tax must be paid within thirty days after its levy to the city treasurer, who must give a receipt therefor, and in case of non-payment the treasurer must at once proceed to collect the same in the same manner as taxes are collected on other property.

Sec. 3446. The treasurer must make settlement with the council for the taxes collected as in other cases.

Sec. 3447. A sewer system may be established in a town or city which may be divided into public, district and private sewers.

Sec. 3448. Public sewers may be established and constructed along the principal courses of drainage at such times, to such extent, of such dimensions and material and under such regulations as may be provided by ordinance; and there may be constructed such branches to sewers already constructed, or to be constructed, as may be considered expedient by the council. No sewer must be run diagonally through private property when it can be run parallel with lines of such property; nor must any public sewer be constructed through private property when it can be constructed along a street, alley or public highway. An appropriation must be made to meet the cost of each public sewer from the general fund of the city or town.

Sec. 3449. District sewers may be established within the limits of districts, to be prescribed by ordinance, and so as to connect with a public sewer or some natural course of drainage. Each district may be subdivided, enlarged or changed, by ordinance, at any time previous to the construction of the sewer therein. The council must cause sewers to be constructed in any district whenever a majority of the property holders residents therein petition therefor, or whenever it is necessary for sanitary and other purposes.

Sec. 3450. The character, dimension and material of such sewer must be prescribed and may be changed, diminished or enlarged or extended by the council. When a district sewer is fully completed, council must cause to be computed the whole cost thereof, and must assess it as a special tax against all the lots of ground in the district respectively, without regard to improvements, and in proportion as their respective areas bear to the area of the whole district, exclusive of streets, alleys and other city or town property, and the council must cause to be made out an assessment against each lot in the district in the name of the owner thereof, which must be collected and paid in the manner hereinafter prescribed. The repairs and other incidental expenses of district sewers must be paid out of the general fund.

Sec. 3451. Private sewers connecting with the public and district sewers may be constructed under such restrictions and regulations as the council may prescribe by ordinance; but the city or town must be at no expense in the construction, repairing or cleaning of the same, but the same must be done by the owner.

Sec. 3452. All special taxes or assessments levied upon any lot or parcel of land for the construction of district sewers of a city or town must be listed, certified to and collected in the manner provided in Sections 3444, 3445, 3446, of this Article, relating to street improvements.

Sec. 3453. For the purpose of paying the expenses, including all costs and damages incurred in taking private property for the use of a city or town, as provided in Subdivision 75, of Section 3390, of this Code, the council may pay for the same, either out of the general fund of the city or town, the whole or any part thereof, or may levy and assess the whole or any part thereof, upon such property as the council determines is specifically benefited thereby. The levy, assessment, and collection of such special tax, and all proceedings, must be the same as provided in Sections 3434 to 3446, inclusive.

Sec 3454. The council may construct and maintain bridges across any streams that flow through or penetrate the boundaries of a town or city, when the public necessity requires it, and the expense thereof must be paid out of the general fund.

Sec. 3455. The council may by ordinance, license all industries, pursuits, professions and occupations, as provided in Subdivision 3, of Section 3390, Article IV., of this Chapter, and the city treasurer must collect the same in the manner and at the time prescribed by ordinance. The city clerk must issue such licenses.

ARTICLE VI.

JUDICIAL POWERS.

Section 3465. *Police court established.*
" 3466. *General criminal jurisdiction.*
" 3467. *Jurisdiction for violation of ordinances and civil and criminal jurisdiction.*
" 3468. *When judge cannot act.*
" 3469. *Preliminary examinations, proceedings in.*
" 3470. *Proceedings in criminal actions.*
" 3471. *Proceedings in civil actions.*
" 3472. *Who to prosecute.*

Sec. 3465. A police court is established in each city or town, which court must always be open, except upon non-judicial days, and upon such days it may transact criminal business only.

Sec. 3466. The police court has exclusive jurisdiction of the following public offenses committed within the city or town boundaries:

1. Petit larceny.

2. Assault and battery, not charged to have been committed upon a public officer in the discharge of his official duty, or with intent to kill.

3. Breaches of the peace, riots, affrays, committing willful injury to property, and all misdemeanors punishable by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment: and,

4. Of proceedings respecting vagrants, lewd, or disorderly persons.

Such offenses must be prosecuted in the name of the State of Montana.

Sec. 3467. The police court also has exclusive jurisdiction:

1. Of all proceedings for the violation of any ordinance of the city or town, both civil and criminal, which must be prosecuted in the name of the city or town.

2. Of any action for the collection of taxes and assessments levied for city or town purposes; or for the erection or improvement of public buildings; for the laying out, or opening, or improving any public street or sidewalk, alley or bridge; or for the purchase of or the improvement of any public grounds; or for any and all public improvements made or ordered by the city or town within its limits, when the amount of the tax or assessments sought to be collected against the person assessed does not exceed three hundred dollars; but no lien upon the property taxed or assessed for the non-payment of the taxes or assessment can be foreclosed in any such action.

3. Of an action for the collection of money due to the city or town, or from the city or town, to any person, when the amount

sought to be collected, exclusive of interest and costs, does not exceed three hundred dollars.

4. For the breach of any official bond given by any city or town officer, and for the breach of any contract, and any action for damages in which the city or town is a party, or is in any way interested; and all forfeited recognizances given to or for the benefit or in behalf of the city or town; and upon all bonds given upon any appeal taken from the judgment of the court in any action above named where the amount claimed, exclusive of costs, does not exceed three hundred dollars.

5. For the recovery of personal property belonging to the city or town, when the value of the property (exclusive of the damages for the taking or detention) does not exceed three hundred dollars; and,

6. Of an action for the collection of any license required by any ordinance of the city or town.

Sec. 3468. In all cases in which the judge is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the sixth degree; and in case of his sickness, absence, or inability to act, the police judge or mayor may call in a justice of the peace residing in the city or town, to act in his place and stead.

Sec. 3469. Proceedings in preliminary examinations in criminal actions in the police court, must be had in conformity with the provisions of Part II, Title III., Chapter VII., of the Penal Code, Sections 1025–1049.

Sec. 3470. Proceedings in police courts in criminal actions triable in such courts are regulated in Part II., Title XI., Chapter I., of the Penal Code, Sections 1650-1695.

Sec. 3471. The proceedings of the police court in civil actions are regulated in Part II., Title XII., of the Code of Civil Procedure, Sections 1085-1088.

Sec. 3472. The city attorney must prosecute all cases for the violation of any ordinance, and prosecute, conduct and control all proceedings in cases mentioned in Sections 3466 and 3467, both in the police court and appeal therefrom to the District Court, but the county attorney must attend and conduct all proceedings of the nature of a preliminary examination before the police court.

ARTICLE VII.

DAMAGE CAUSED BY CHANGE OF GRADE.

Section *3480. Damages must be paid on change of grade..*
" *3481. Appraisement of damages.*
" *3482. Time for report to be made.*
" *3483. Appeals and proceedings thereunder.*
" *3484. Issues made.*
" *3485. Costs how taxed.*

Sec. 3480. When the grade of any street or sidewalk in any city or town is established by the corporate authority of such city or town, and a building shall thereafter be constructed upon a lot abutting on said street, no change must be made in the grade of such street or sidewalk which requires the raising or lowering of any building so constructed until the damages which may accrue by reason of such raising or lowering are ascertained and paid, as is hereinafter provided.

Sec. 3481. In case the council of such city or town and the owner of such building are unable to agree upon the amount of such damages, the council must appoint three disinterested freeholders of such city or town to appraise such damages. The appraisers so appointed, after being duly sworn, must appraise the damage and make two written reports thereof, signed by at least a majority of them, one of which must be delivered to the clerk of such city or town, to be immediately filed in his office, and the other to the owner of the building.

Sec. 3482. Such report must be made and delivered within ten days after the appointment of the appraisers.

Sec. 3483. Within twenty days after the filing of the report with the clerk, either party feeling dissatisfied with such appraisement may file in the office of the clerk of the District Court, within the county in which such city or town is located, a copy of such report, certified by the clerk of such city or town, and file with said clerk and serve on the opposite party a notice of appeal from such report, whereupon the clerk of the District Court must cause such proceedings to be entered on the register of actions, designating such city or town as plaintiff, and the owner of the building as defendant, and the question of the amount of damages may be tried by a jury or the court.

Sec. 3484. The report of the appraisers is the complaint, all the material facts of which in reference to damages are considered denied, and these constitute the issues to be tried.

Sec. 3485. In case the owner of the building appeals and the damages are not increased, or in case the city or town appeals, and the damages are decreased in the District Court, the costs must be paid by the defendant. In all other cases, or in case no appeal is taken, the cost must be paid by the city or town.

CHAPTER IV.

THE PROCEEDINGS FOR CHANGING CITIES OR TOWNS FROM ONE CLASS TO ANOTHER.

Section 3500. Proceedings for advancement and census.
" 3501. Resolution declaring the advancement.
" 3502. New officers, when elected.
" 3503. Old ordinances, etc., remain in force until when.

Section 3504. Cities may be reduced in class and proceedings.
" *3505. Disincorporation of city or town and proceedings.*
" *3506. Duty of the county clerk and city or town treasurer, property and money to be turned over.*

Sec. 3500. Whenever in the opinion of a town or city council such town or city has a population requisite for the advancement thereof from a town to a city of the first or second class, or from a city of the second class to a city of the first class, according to the last federal or State census, or otherwise, the council must by resolution forthwith cause a census to be taken of all the inhabitants of such city or town, in which census the full name of each person must be plainly written, the names alphabetically arranged and regularly numbered, and when completed verified by oath of the person appointed by the council to take the same, and filed with the city clerk.

Sec. 3501. If it appear by the census that the city or town contains the requisite population to be advanced, the council must thereupon by resolution declare, that the town is advanced to a city of the first or second class, or a city of the second class is advanced to a city of the first class, as the case may be, and file a certified copy of such resolution in the office of the county clerk of the county, and in the office of the Secretary of State. Whereupon such town becomes a city of the first or second class, and a city of the second class becomes a city of the first class, as the case may be, to be governed under the provisions of this Title.

Sec. 3502. The first election of officers of the new municipal corporation organized under the the provisions of this Chapter, must be at the first annual municipal election after such proceedings, and the old officers remain in office until the new officers are elected and qualified.

Sec. 3503. All ordinances, by-laws, and resolutions adopted by the old municipal corporation, as far as consistent with the provisions of this Title, remain in force until repealed by the council of the new municipal corporation.

Sec. 3504. Whenever it appears by the census taken by the United States, State, or otherwise, that the population of a city of the first or second class has decreased so as to be insufficient in number to entitle it to be a city of that class, the council must thereupon by a resolution declare that such city be reduced to a city of the second class or town, as the case may be. A certified copy of such resolution must be filed in the office of the county clerk and in the office of the Secretary of State, and thereafter such city becomes a city of the second class or a town, as the case may be, to be governed under the provisions of this Title. The provisions of Sections 3502 and 3503 apply to this section.

Sec. 3505. Whenever it appears by such census that a city or town has a population of less than three hundred inhabitants, the corporate existence of such city or town under this Title must be discontinued. The Board of County Commissioners of the county in which the city or town is situated must declare by resolution that the incorporation thereof be discontinued, and must provide for the payment of the indebtedness of the same and thereafter annually levy a tax on all the property situate within the limits of such city or town until all of such indebtedness is paid. The books, documents, records, papers and seal of such city or town must be deposited with the county clerk for safe keeping and reference, and the records of the police judge or police court must be deposited with one of the justices of the peace of the township in which such city or town is situated, who has power to execute and complete all unfinished business of such police judge or court.

Sec. 3506. The county clerk must send a certified copy of the resolution of discontinuance to the Secretary of State, and all moneys in the hands of the city or town treasurer must be paid to the county treasurer, which must be applied in payment of the indebtedness of such city or town, and all other property must be delivered to the Board of County Commissioners, which must be sold and disposed of for the purpose of paying such indebtedness.

CHAPTER V.

INDEBTEDNESS OF CITIES OR TOWNS FOR INTERNAL IMPROVEMENTS—BONDS.

Section 3510. City or town indebtedness limited.
" *3511. Money borrowed must be used for specific purpose.*
" *3512. Power to borrow money and limitation of.*
" *3513. Question of borrowing money for public improvements to be submitted to electors.*
" *3514. The election, notice thereof and manner of conducting.*
" *3515. Bonds to be sold at public auction. Notice of sale.*
" *3516. Form of bonds and what to contain.*
" *3517. Proceeds of sale, how applied.*
" *3518. Tax for payment of principal and interest on bonds must be levied. How interest and principal to be paid.*
" *3519. Bonds redeemable and payable when and how.*
" *3520. Additional tax for sewer and water works.*
" *3521. Election and proceedings thereunder.*
" *3522. Funded debt.*
" *3523. Proceedings to fund.*
" *3524. Bonds to be issued. Payment of principal and interest and redemption.*

Sec. 3510. No city or town must become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding three per centum of the value of the taxable property therein, to be ascertained by the last assessment for the State and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by, or on behalf of, such city or town, are void. The Legislative Assembly may extend the limit mentioned in this section, by authorizing municipal corporations to submit the question to a vote of the tax payers affected thereby, when such increase is necessary to construct a sewerage system or to procure a supply of water for such municipality, which shall own and control said water supply and devote the revenues derived therefrom to the payment of the debt.

Sec. 3511. All moneys borrowed by, or on behalf of any city or town, must be used only for the purpose specified in the law authorizing the loan.

Sec. 3512. The council of any city or town having a corporate existence in this State at the time of the adoption of the Constitution, or organized under the provisions of this Title, has power to borrow money, and to contract indebtedness in the manner prescribed in this Chapter, and for the purposes mentioned in the next succeeding section, not exceeding in amount, including the existing indebtedness of such city or town in the aggregate, three per centum in value of the taxable property therein, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness.

Sec. 3513. The council of any such city or town has the power to submit to the qualified electors thereof, the question whether bonds with coupons attached thereto shall be issued on the credit of the city or town, to an amount not exceeding said three per centum of the assessed valuation, for the purpose of constructing water works, sewers, public buildings, bridges, grading and opening streets, or other public improvements.

Sec. 3514. The notice of such election must be published at least in one daily newspaper, if there be one published in the city or town, and if not, in some weekly newspaper at least once a week for twenty-one days, and such notice must be posted in three public places in the city or town. The notice must state the time and places of holding the election, the amount of bonds proposed to be issued, and the particular purpose therefor. At such election the ballots must contain the words "Bonds—Yes," "Bonds—No," and in voting the elector must make a cross thus "X" opposite the answer he intends to vote for. Such election must be conducted and canvassed, and the returns made in the same manner as other city or town elections.

Sec. 3515. If a majority of votes cast at the election be for

"Bonds—Yes," the council must give notice by advertisement in some newspaper published in the city or town, and also in some newspaper published in New York city, for a period of not less than four weeks, to the effect that the city or town will sell such bonds, briefly describing them, at public auction, and stating the time when and the place where such sale will take place.

Sec. 3516. Such bonds must be in such form as the council directs, and be of the denominations of five hundred and one thousand dollars. The bonds and the coupons attached must be signed by the mayor and the city or town clerk, and the date of the issue of each must be registered by the clerk. The bonds must be sold at not less than their par value, and draw interest at the rate of six per centum per annum, payable semi-annually.

Sec. 3517. The money arising from the sale of the bonds must be paid into the city or town treasury and applied to the construction of such public improvements mentioned in this Chapter, as may be determined by the council.

Sec. 3518. A tax to be fixed by ordinance must be levied each year for the purpose of paying the interest on the bonds and to create a sinking fund for their redemption. The treasurer of such city or town must pay in lawful money of the United States, on the first day of January next succeeding the issue of the bonds, and semi-annually thereafter on each first day of January and first day of July, the interest due on the bonds upon presentation at his office of the proper coupons, which must show the amounts due and the number of the bonds to which they severally belong. In case the holder of such bonds gives the treasurer notice in writing that he wishes the bonds so held by him and the interest thereon to be paid in New York city, then such bonds and coupons are payable in New York city, at such bank as is designated by the city or town treasurer, and all bonds and coupons so paid, must be returned to the city or town council at its next monthly meeting, and said bonds must be canceled by the clerk.

Sec. 3519. The bonds are redeemable in ten years and payable in twenty years. Whenever at any time after ten years from the issue of the bonds, the sum in the sinking fund equals or exceeds one thousand dollars, the city or town treasurer must cause a notice to be published in one newspaper published in such city or town that he will in thirty days from the date of such notice, redeem said amount of bonds which then may be payable, giving the number thereof, preference being given to the oldest issue; and if at the expiration of thirty days the holder of the bonds fails or neglects to present the same for payment, interest thereon must cease; but the treasurer must at all times thereafter be ready to redeem the same on presentation. Such notice must also be sent by mail to the bank in New York city which the treasurer has designated as the bank at which the bonds and the interest therein will be paid.

Sec. 3520. The council of any city or town mentioned in this Chapter, in addition to the powers granted in the preceding sections of this Chapter, has the power to borrow money or contract indebtedness not exceeding in amount, including the existing indebtedness of such city or town in the aggregate, six per centum in value of the taxable property therein, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness, for the purpose of completing or constructing a sewerage system or to procure a supply of water for such city or town, which shall own and control said water supply, and devote the revenue derived therefrom to the payment of such indebtedness.

Sec. 3521. The question of creating of such indebtedness must be submitted to the electors, the election must take place and the bonds must be issued, sold and redeemed, and the same proceedings had as is prescribed in Sections 3513 to 3519, inclusive, of this Chapter.

Sec. 3522. The council of any city or town having a floating indebtedness of ten thousand dollars or more may fund the indebtedness and issue bonds with coupons attached thereto, as hereinafter provided in this Chapter.

Sec. 3523. The council, by a resolution, must declare that the existing indebtedness of the town or city shall be funded by the issuance of such bonds. The bonds must be issued for a sum not less than one hundred dollars nor more than one thousand dollars. The interest thereon must not exceed six per cent. per year, payable semi-annually, and may issue to any person holding city or town warrants, indebtedness or just claims against a city or town prior to the passage of such resolution, at par.

Sec. 3524. The issuance of such bonds, the payment of interest thereon and the redemption thereof must be made in the same manner and the same proceedings had as provided in Sections 3513 to 3519, inclusive, of this Chapter, but such bonds are redeemable and payable at such times as are prescribed in the ordinance.

CHAPTER VI.

PLATS OF CITIES, TOWNS, AND ADDITIONS THERETO.

Section 3530. Plat or addition to be made and recorded.
" *3531. What plat must contain.*
" *3532. Survey, who to make and what to contain.*
" *3533. What survey to contain continued.*
" *3534. Certificate of surveyor.*
" *3535. Certificate of dedication and form.*

Section 3536. Mortgagees, must sign and release.
" 3537. Plat to be approved, and certificate.
" 3538. Plats must be made on mounted drawing paper, filed and recorded.
" 3539. No lots to be sold until plat recorded, penalty.
" 3540. Donation or grant on a plat has the effect of a deed.
" 3541. New survey and plat may be ordered.
" 3542. Form of plat may be prescribed by ordinance.
" 3543. Land within the limits of a city or town may be platted by the owner.

Sec. 3530. Any person who may lay out any city, town or addition to any city or town, must cause to be made an accurate survey and plat thereof, and cause the same to be recorded in the office of the county clerk.

Sec. 3531. The plat must show as follows:

1. All streets, alleys, avenues and highways and the width thereof.

2. All parks, squares and all other grounds reserved for public uses, with the boundaries and dimensions thereof.

3. All lots and blocks, with their boundaries, designating such lots and blocks by numbers, and giving the dimensions of every lot and block.

4. The angles of intersection of all boundary lines of the lots and blocks, whenever the angle of intersection is not a right angle.

5. The location of all stone or iron monuments set to establish street lines.

6. The exterior boundaries of the piece of land so platted, giving such boundaries by true courses and distances.

7. The location of all section corners, or legal subdivision corners of sections within the limits of said plat.

8. The adjoining block corners of all surveyed and adjoining additions. In case no such section or subdivision corners are within the limits of the plat, it must show a connection line to some corner or initial point of the government surveys, if there be any within one mile of such townsite. All distances marked on the plat must be in feet and decimals of a foot.

Sec. 3532. A survey of the city or townsite, or addition, must be made by the county surveyor, or some other competent surveyor, who must mark all the corners of the blocks and lots shown on the plat by substantial stakes or monuments, and must set stone or iron monuments at the points of intersection of the center lines of all the streets, where practicable, or as near as possible to such points, and their location must be shown by marking on the plat the distances to the block corners adjacent thereto. The top of such monument must be placed one foot below the surface of the ground, and in size must be six inches by six inches, and be placed in the ground to the depth of one foot.

Sec. 3533. If a stone is used as a monument it must have a cross cut in the top at the point of intersection of the street lines, or a hole may be drilled in the stone to mark such point. If an iron monument is used it must be at least two inches in diameter by two and one-half feet in length, and may be either solid iron or pipe. The dimensions of the monuments must be marked on the plat, and establish permanently the lines of all the streets.

Sec. 3534. The surveyor must make and subscribe in the plat a certificate that such survey was made according to the provisions of this Chapter, stating the date of survey, and verify the same by his oath.

Sec. 3535. The owner of the land so platted, or his duly authorized attorney, must make on such plat a certificate, to be known as "The certificate of dedication," which may be in the following form: ———, do hereby certify that — have caused to be surveyed, subdivided and platted into lots, blocks, streets and alleys, as shown by the plat and certificate of survey hereunto annexed, the following described tract of land, to wit: (Here describe land included in plat), to be known and designated (here give full name of city, town or addition), and the lands included in all streets, avenues and alleys, and parks or public squares shown on said plat, are hereby granted and donated to the use of the public forever. Dated this ———, day of ———, A. D. ——; which must be signed by all the owners and acknowledged in the same manner as a deed.

Sec. 3536. Persons holding mortgages on such land must also sign the certificate, and release the same in the county clerk's office before such city or townsite, or addition, is approved by the council.

Sec. 3537. All such plats must be examined by the council of the city or town, and a copy thereof must be filed with the city or town clerk. A certificate of the approval by the council, signed by the mayor and clerk, and also a certificate of the city or town surveyor, or of the person acting as such, that the plat conforms to the adjoining additions or parts of the city or town already platted, as near as the circumstances will admit, must be written on the plat before the same is filed in the office of the county clerk.

Sec. 3538. All such plats must be made on mounted drawing paper, and filed and recorded in the office of the county clerk, and he must keep the original plat for inspection.

Sec. 3539. Such plat must be recorded before any lots or blocks are sold or transferred in any manner, and the owner thereof, or any part of the same, must forfeit or pay for each lot sold or transferred before the recording of such plat, a penalty not less than ten nor more than one hundred dollars, which must be recovered by the county attorney for the use of the county.

Sec. 3540. Every donation or grant to the public, or to any person, society, or corporation, marked or noted as such on the plat of the city or town, or addition, must be considered, to all intents and purposes, as a deed to the said donee.

Sec. 3541. Whenever the recorded plat of any city or town or addition thereto, does not definitely show the location or size of lots or blocks, or the location or width of any street or alley in such city or town or addition, the council is authorized to cause a new and correct survey and plat of such city or town or addition to be made and recorded in the office of the county clerk, which corrected plat must follow the plan of the original survey and plat, so far as the same can be ascertained and followed, and a certificate of the surveyor making the same must be indorsed thereon, referring to the original plat corrected thereby, and the defect existing therein, and corrected by such new survey and plat. The ordinance authorizing the making of such plat must be recorded in the office of the county clerk. The surveyor's certificate must show where said ordinance is recorded.

Sec. 3542. The council of any city or town has power by ordinance to prescribe the manner and form of making any survey of any plat of lands within the city or town.

Sec. 3543. Any tract of land within the limits of a city or town may be platted by the authority of the council of such city or town and the cost thereof must be taxed to the owner of such land, but the owner may plat the same and file and record it. No such plat is valid until approved and accepted by the council.

CHAPTER VII.

MISCELLANEOUS PROVISIONS.

Section 3560. Council may discontinue streets.
" *3561. Notice must be given.*
" *3562. Existing cities reorganized under this Title.*
" *3563. Such cities become cities of the first or second class or towns.*
" *3564. Old officers continue in office, and election.*
" *3565. The effect of reorganization of cities and towns under this Title.*
" *3566. Cities and towns responsible for damages by mobs and riots.*
" *3567. Judgments against cities or towns, how paid.*
" *3568. Judgment may be funded.*
" *3569. The council may establish a free public library.*
" *3570. Question submitted to electors, and election.*
" *3571. Library established.*
" *3572. Inhabitants of city or town competent jurors.*

Sec. 3560. The council may discontinue a street or alley in a city or town, or any part thereof upon the petition in writing of all the owners of lots on the street or alley, if it can be done without detriment to the public interest.

Sec. 3561. Before acting upon such petition a notice must be published or posted in three public places, stating when such petition will be acted on, and what street or alley, or part thereof, is asked to be vacated. Such notice must be published in a newspaper, or posted, at least one week before the petition is acted on.

Sec. 3562. All cities and towns existing or heretofore incorporated under the laws of the Territory or State of Montana, either under general or special laws or charters, on the adoption of this Code become and are incorporated under the provisions of this Title, and have the powers conferred, or that may hereafter be conferred by law upon cities or towns of the class to which each may belong.

Sec. 3563. Such cities or towns are and become cities of the first or second class or towns according to their population as determined by the federal census of 1890.

Sec. 3564. All officers of such city or town holding office at the time of the adoption of this Code remain in office until the next annual election and the first Monday of May next ensuing thereafter, and until their successors are elected and qualified. The duties and compensation of such officers and the liabilities of sureties on official bonds remain the same. All elections must be held under the provisions of this Title.

Sec. 3565. Any such city or town is the identical corporation theretofore existing, and the reorganization under this Title in no way affects or impairs the title to any property owned or held by such city or town or in trust therefor, or any debts, demands, liabilities, bonds, or other evidences of indebtedness, or other obligations in fovor of or against such city or town, or any action or proceeding then pending, nor does it operate to repeal or affect in any manner any ordinance, resolution or by-law theretofore passed or adopted and remaining unrepealed, or to discharge any person from any liability, civil or criminal, for any violation thereof; but such ordinances, resolutions and by-laws, so far as the same are not in conflict with this Title, are and remain in full force until repealed or amended, and all proceedings commenced theretofore, after the adoption of this Code must be conducted in accordance with the provisions of this Title.

Sec. 3566. Every city or town is responsible for injuries to real or personal property within its corporate limits done or caused by mobs or riots.

Sec. 3567. On the certificate of a justice of the peace or the clerk of the court in which any judgment is rendered, showing the amount of the judgment and the date of its entry, the council must by ordinance direct that the amount of such judgment be paid out of the general fund, and that a warrant issue therefor on the general fund if there is sufficient money therein, exclusive of the appropriations for the current fiscal year, to pay the same, and the council must at the proper times levy and cause to be collected a tax on all the property of the city or town for the payment of such judgment within a period of three years from its presentation, if there is not sufficient money as aforesaid in the general fund to pay the same.

Sec. 3568. If any judgment rendered against any town or city exceeds the sum of ten thousand dollars, the council may fund the same as other indebtedness against the city or town is funded.

Sec. 3569. The council has power to establish and maintain a free public library, and for that purpose may provide by ordinance for a tax not exceeding one mill on a dollar on the property in the city or town. The tax so levied and collected constitutes a fund known as the "Library Fund," and must be expended only for the purchase of books and other things necessary for a library, and the support and maintenance thereof.

Sec. 3570. Before any such ordinance is passed the council must submit to the qualified electors of the city or town at any election, the question. At such election the ballots must have printed or written thereon the words "Public Library—Yes;" "Public Library—No," and in voting the elector must make a cross thus "X" opposite the answer for which he intends to vote.

Sec. 3571. If the majority of the votes cast at such election is in favor of the establishment of a public library, then such library must be established as above provided. Such question may be submitted at the annual or at any special election held in such city or town, and must be submitted at any such election on the petition of one hundred or more inhabitants of such city or town.

Sec. 3572. On the trial of an action in which a city or town is interested, the inhabitants thereof are competent jurors, if otherwise competent and qualified according to law.

CHAPTER VIII.

CITY AND TOWNSITES ON THE PUBLIC LANDS OF THE UNITED STATES.

Article I. City and townsites in incorporated cities and towns.
" II. Town sites in unincorporated towns.

ARTICLE I.

CITY AND TOWNSITES IN INCORPORATED CITIES AND TOWNS.

Section 3600. Council to enter land in United States land office.

Section 3601. Filing approved plat.
" *3602. Survey.*
" *3603. Plat, what to contain.*
" *3604. Notice of survey.*
" *3605. What dedicated to public use.*
" *3606. What plat must show.*
" *3607. Assessment to pay expenses.*
" *3608. Claims for lands.*
" *3609. Deficit in expenses, how collected.*
" *3610. Deed to be given after six months, adverse claims.*
" *3611. Mining claims.*
" *3612. Settlement of adverse claims.*
" *3613. Notice of filing plat.*
" *3614. Sale of delinquent lands.*
" *3615. Redemption.*
" *3616. Unclaimed lands.*
" *3617. School lots.*
" *3618. Surplus of money received to be paid into the treasury.*
" *3619. Informality not to invalidate.*
" *3620. City or townsite on school lands.*

Sec. 3600. It is the duty of the city or town council of any city or town in this State, to enter at the proper land office of the United States such quantity of land as the inhabitants of any incorporated city or town may be entitled to claim, in the aggregate, according to their population, in the manner required by the laws of the United States and the regulations prescribed by the Secretary of the Interior of the United States, and by order entered upon their minutes of proceedings, at a regular meeting, to authorize the mayor and clerk of such council, attested by the corporate seal, to make and sign all necessary declaratory statements, certificates, and affidavits, or other instruments requisite to carry into effect the intentions of this Article and the intentions of the Act of Congress of the United States entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven, and to make proof, when required, of the facts necessary to establish the claim of such inhabitants to the lands so granted by said Act of Congress.

Sec. 3601. The corporate council of every city and town, situated upon the public lands of this State, must, within three months after date of receipt at the United States district land office of the approved plat of the township, embracing the lands upon which the town or city is situated, file in said land office an application in writing, describing the tract of land thus occupied, and thereafter make proof and payment for the tract in the manner required by law.

Sec. 3602. The said council must, after the filing of the application, if not previously done, cause a survey to be made by some competent person, of the lands which the inhabitants of said city or town may be entitled to claim under the said Act of Congress, located according to the legal subdivisions of the sections and by the section lines of the United States, and the same must be distinctly marked by suitable monuments; such survey must further particularly designate all streets, roads, lanes, and alleys, public squares, churches, school lots, cemeteries, commons, and levees, as the same exist and have been heretofore dedicated in any manner to public use, and by measurement the precise boundaries and area of each and every lot or parcel of land and premises claimed by any person, corporation, or association within said city or townsite must be designated on the map, showing the name or names of the possessor, or occupants and claimants if other than the occupant of each particular lot and parcel of land; and in case of any disputed claim as to lots, lands, premises, or boundaries, the said surveyor, if the same be demanded by any person, shall designate the lines in different color from the body of the plat of such part of any premises so disputed or claimed adversely.

Sec. 3603. A plat thereof must be made in duplicate, on a scale of not less than eighty feet to one inch, which must be duly certified under oath by the surveyor, one of which must be filed with the county clerk of the county wherein the city or town is situated, and one must be deposited with the city or town clerk. These plats shall be considered public records, and must each be accompanied with a copy of the field-notes, and the county clerk must make a record thereof in a book to be kept by him for that purpose. The said surveyor must number the blocks as divided by the roads and streets opened at the time of making such survey, and must number the several lots consecutively in each block, and all other parcels of land within said town or city surveyed as herein provided, which said numbers must be a sufficient description of any parcel of land in said plats, field-notes, and records.

Sec. 3604. Before proceeding to make such survey, at least ten days' notice thereof must be given, by posting within the limits of such city or townsite, not less than five written or printed notices of the time when such survey shall commence, and by publication thereof in any newspaper or newspapers published in the city or town, if one there be. The survey of said city or town lands must be made to the best advantage and at the least expense to the holders and claimants thereof; and the council is hereby authorized to receive bids for such surveying, and to let the same by contract to the lowest competent bidder.

Sec. 3605. All streets, roads, lanes, and alleys, public squares, school lots, cemeteries, commons, parks and levees, surveyed, marked and platted on the map of any city or townsite, as prescribed and directed by the provisions of this Article, are hereby declared to be dedicated to public use by the filing of such city or town plat in the office of the county clerk, and become the property of such town or city, and be subject to the control of the council or other municipal authority of such town or city.

Sec. 3606. Such plat must show such matters as are contained in Section 3431, Chapter VI., of this Title, and must be made, kept and filed in the same manner as provided in Section 3538, Chapter VI., of this Title.

Sec. 3607. Each lot or parcel of said lands having thereon valuable improvements or buildings ordinarily used as dwellings or for business purposes, not exceeding one-tenth of one acre in area, shall be rated and assessed by the said corporate authorities at the sum of one dollar; each lot or parcel of such lands exceeding one-tenth, and not exceeding one-eighth of one acre in area, shall be rated and assessed at the sum of one dollar and fifty cents; each lot or parcel of such lands exceeding in area one-eighth of one acre and not exceeding one-quarter of an acre in area, shall be rated and assessed at the sum of two dollars; and each lot or parcel of such lands exceeding one-quarter of an acre and not exceeding one-half of one acre in area, shall be rated and assessed at the sum of two dollars and fifty cents; and each lot or parcel of land so improved, exceeding one-half acre in area, shall be assessed at the rate of two dollars and fifty cents for each half an acre or fractional part over half an acre; and every lot or parcel of land enclosed, which may not otherwise be improved, or unenclosed, claimed by any person, corporation, or association, shall be rated and assessed at the rate of two dollars per acre or fractional part over an acre; and where upon one parcel of land there shall be two or more separate buildings occupied or used ordinarily as dwellings or for business purposes, each such building, for the purposes of this section, shall be considered as standing on a separate lot of land; but the whole of such premises may be conveyed in one deed; which moneys so assessed must be received by the clerk and be paid by him into the city or town treasury.

Sec. 3608. Every person, company, corporation, or association, claimant of any city or town lot or parcel of land within the limits of such city or townsite, must present to the council, by filing the same with the clerk thereof, within six months after the plat has been filed in the office of the county clerk, his, her, or their affidavit, verified in person or by duly authorized agent or attorney, in which must be concisely stated the facts constituting the possession or right of possession of the claimant, and that the claimant is entitled to the possession thereof as against all other persons, to the best of his knowledge and belief, to which must be attached a copy of so much of the plat of said city or townsite as will fully exhibit the particular lot or parcel of land so claimed, with the abuttals; and every such claimant, at the time of filing such affidavit, must pay to such clerk such sum of money as said clerk shall thereon certify to be due for the assessment mentioned in the preceding section, together with the further sum of five dollars, to be appropriated to the payment of expenses incurred in carrying out the provisions of this Article, and the said clerk must thereupon give to such claimant a certificate, attested by the corporate seal, containing a description of the lot or parcel of land claimed, and setting forth the amounts paid thereon by such claimant. The council of every such city or town must procure a bound book, wherein the clerk must make proper entries of the substantial matters contained in every such certificate issued by him, numbering the same in consecutive order, setting forth the name of claimant or claimants in full, date of issue, and description of lot or lots claimed.

Sec. 3609. If it is found that the amounts hereinbefore specified as assessments and fees for cost and expenses prove to be insufficient to cover and defray all the necessary expenses, the council must estimate the deficiency and assess such deficiency *pro rata* upon all the lots and parcels of land in such city or town, and declare the same upon the basis set down in Section 3607; which additional amount, if any, may be paid by the claimant at the time when the certificate hereinbefore mentioned, or at the time when the deed of conveyance hereinafter provided for, is issued.

Sec. 3610. At the expiration of six months after the issuance of such certificate, if there has been no adverse claim filed in the meantime, the council must execute and deliver to such claimant, or to his, her, or their heirs, administrators, or assigns, a good and sufficient deed of the premises described in the application of the claimant originally filed, which said deed must be signed and acknowledged by the mayor or other presiding officer of the council, and attested by the corporate seal of such city or town. No conveyance of any such lands made as in this Article provided, concludes the rights of third persons; but such third persons may have their action in the premises, to determine their alleged interest in such lands against such grantee, his heirs or assigns, to which they may deem themselves entitled either in law or equity; but no action for the recovery of the possession of such premises, or any portion thereof, must be maintained in any court against the grantee named therein, or against his, her, or their assigns, unless such action shall be commenced within two years after such deed shall have been filed for record in the office of the county clerk of the county where such lands are situate; nothing herein shall be construed to extend the time of limitation prescribed by law for the commencement of actions upon a possessory claim or title to real estate, when such action is barred by law at the time of the passage of this Code.

Sec. 3611. Whenever mining claims have been located prior to the passage of this Code, and where the same are prior in location to the claim of any occupant for other purposes, such mining rights, according to the metes and bounds so located and claimed, are not in any manner affected by the provisions of this Article; nor must any sale be made, nor any title be conveyed by reason of any sale of such lands so claimed for mining purposes, until after the occupancy of such mining claims shall have been abandoned by the holders thereof.

Sec. 3612. In all cases of adverse claims or disputes arising out of conflicting claims to lands or boundary lines, the adverse claimants may submit the decision thereof to the council of such city or town by an agreement in writing specifying particularly the subject matter in dispute, and may agree that their decision shall be final. The coucil must hear the proofs, and shall order a deed to be executed in accordance with the facts: but in all other cases of adverse claim the party out of possession shall commence his action in a court of competent jurisdiction within six months after the filing of the city or town plat in the office of the county clerk. In case such action be commenced, the plaintiff must serve a notice of *lis pendens* upon the mayor, who must thereupon stay all proceedings in the matter of granting any certificate or deed until the final decision of such suit; and upon presentation of a certified copy of the final judgment of such court in such action, the council must cause to be executed and delivered a deed of such premises, in accordance with the judgment. In case no such action be commenced within the time herein prescribed, the council must deliver a deed to the party in possession, as provided in this Article.

Sec. 3613. The said council must give public notice by advertisement for four weeks in any newspaper published in said city or town, and if there be no newspaper published in said city or town, then by publication in some newspaper having the most general circulation in such city or town, and not less than five written or printed notices must be posted within the limits of such city or townsite; such notice must state that the plat thereof has been filed in the clerk's office. If any person, company, association, or any other claimant of lands in such city or town fails, neglects, or refuses to make application to the council for a deed of conveyance to the lands so claimed, and to pay the sums of money specified in this Article, within six months after the filing of said plat, the clerk must enter on his book the names of all such persons, with a description of the property or premises, and certify the same as delinquent for the amount of assessment certified to by such clerk as due, under this Article; and at the expiration of thirty days after making such entries, if such application be not made and such assessment be not paid, the said council must advertise all such lots and parcels of land for sale, in the same manner as real estate is required to be advertised under execution.

Sec. 3614. At the time of sale mentioned in the advertisement the marshal of the city or town must sell all such parcels of land so remaining delinquent at public auction to the highest bidder for cash, at some public place within the limits of the city or townsite; and he must give the purchaser at such sale a certificate of his purchase, setting forth therein the description of the premises sold, the amount paid, and that the same is subject to redemption, as prescribed in the next section; but no sale must be made for less than the whole amount of assessments and the costs of making the sale, which costs shall be divided *pro rata* among the several parcels offered for sale.

Sec. 3615. At any time within six months after such sale the original claimant is entitled to redeem such premises by paying to the purchaser, or the clerk of the council for the purchaser, double the whole amount of the purchase money; but in case no redemption be made, the purchaser, his heirs or assigns, is entitled to demand and receive from the council a deed of such premises, which deed is absolute as against the parties delinquent, and entitles the grantee, his heirs or assigns to a writ of assistance from the District Court having jurisdiction of the premises.

Sec. 3616. If there be any unoccupied or vacant unclaimed lands within the limits of such city or townsite, the council must cause the same to be laid out and surveyed into suitable blocks and lots, and must reserve such portions as may be deemed necessary for public squares, churches, school house lots, parks and levees, and cause all necessary roads, streets, lanes and alleys to be laid out through the same and dedicated to public use; and the council may sell the same in suitable parcels to possessors of adjoining lands or to other persons of said town at a price not less than five dollars per acre or fraction of an acre; and in case two or more claimants apply for the same tract, or parcel of the same tract, they must sell the same by auction to the highest bidder. If any such lands remain unsold at the end of six months after the filing of the town plat, the council has power to sell such vacant lands at public or private sale in such manner and on such terms as they may deem advisable for the best interests of the town, and shall give deeds therefor to the several purchasers.

Sec. 3617. All school lots and parcels of land reserved for school purposes must be conveyed to the school trustees of the school district in which such city or town is situate, without cost or charge of any kind whatever.

Sec. 3618. All expenses necessarily incurred or contracted by the carrying into effect of the provisions of this Article are a charge upon the city or town treasury of each particular city or town ordering the work to be done, to be paid out of the treasury, upon the order of the council; and all moneys paid for lands or to defray the expenses of carrying into effect the provisions of this Article shall be paid into the city or town treasury by the officers receiving the same, and shall constitute a special fund, from which shall be paid all expenses, and the surplus, if any there be, shall be paid into the general fund.

Sec. 3619. No mere informality, failure, or omission on the part of any of the persons or officers named in this Article invalidates the acts of such person or officer; but every certificate or deed granted to any person pursuant to the provisions of this Article is conclusive evidence that all preliminary proceedings in relation thereto have been correctly taken and performed.

Sec. 3620. When the lands of such city or town are on a school section or subdivision thereof and are owned by the State, the council may procure title and purchase the same from the State and dispose of the same in the manner provided in this Article for the disposing of lands purchased from the United States.

ARTICLE II.

TOWNSITES IN UNINCORPORATED TOWNS.

Section 3630. District judge to enter at land office.
" *3631. Estimate of expenses.*
" *3632. Survey of lands.*
" *3633. Plats, what to contain.*
" *3634. Notice of survey to be given.*
" *3635. What dedicated to public use.*
" *3636. What plat must show.*
" *3637. Assessment for expenses.*
" *3638. Surplus, what to be done with.*
" *3639. Claimants to make affidavits.*
" *3640. Additional assessments to pay expenses.*
" *3641. Deeds to be delivered in six months. Adverse claims.*
" *3642. Mining claims.*
" *3643. Adverse claims. Actions for possession.*
" *3644. Notice of filing plat.*
" *3645. Sale of delinquent lands.*
" *3646. Redemption.*
" *3647. Unclaimed lands.*
" *3648. School lots.*
" *3649. Vacancy in office of judge.*
" *3650. Clerical work must be performed by clerk of District Court.*
" *3651. Accounts of judge.*

Section 3652. Deposit of books with county clerk, when.
" *3653. Informality not to invalidate.*
" *3654. City or townsite on school lands.*

Sec. 3630. It is the duty of the judge of the District Court of any county in this State to enter at the proper land office of the United States such quantity of land as the inhabitants of any unincorporated town, situated in the county of such district judge, may be entitled to claim in the aggregate, according to their population, in the manner required by the laws of the United States, and the regulations prescribed by the Secretary of the Interior of the United States, and to make and sign all necessary declaratory statements, certificates and affidavits, or other instruments requisite to carry into effect the intentions of this Article, and the intention of the Act of Congress of the United States entitled "An act for the relief of the inhabitants of cities and towns upon the public lands, approved March second, eighteen hundred and sixty-seven," and to make proof, when required, of the facts necessary to establish the claim of such inhabitants to the lands so granted by said Act of Congress.

Sec. 3631. The district judge of any county in this State, whenever he is so requested by a petition signed by not less than five residents, householders in any unincorporated town, whose names appear upon the assessment roll for the year preceding such application—which petition shall set forth the existence, name and locality of such town; whether such town is situated on surveyed or unsurveyed lands, and if on surveyed lands the quarter sections or lesser subdivision covered thereby must be stated; the estimated number of its inhabitants; the number of separate lots or parcels of land within such town site, and the amount of land to which they are entitled under said Act of Congress—must estimate the cost of entering such land, and of the survey and recording of the same, and must indorse such estimate upon said petition; and upon receiving from any of the parties interested the amount of money mentioned in such estimate, the said district judge may cause an enumeration of the inhabitants of such town to be made by some competent person, who must be appointed for that purpose by such judge; and such enumeration must be returned by the person making the same, exhibiting therein names of all the heads of families and occupants of lots, lands, or premises within such townsite, alphabetically arranged, verified by his oath, to the judge.

Sec. 3632. The judge must thereupon cause a survey to be made, by some competent person, of the lands which the inhabitants of said town may be entitled to claim under the said Act of Congress, located according to the legal subdivision of the sections and by the section lines of the United States, and the same must be distinctly marked by suitable monuments. Such surveys must further particularly designate all streets, roads, lanes, and alleys, public squares, churches, school lots, levees or parks, cemeteries, and commons, as the same exist, and have been heretofore dedicated in any manner to public use; and by measurement, the precise boundaries and area of each and every lot or parcel of land and premises claimed by any person, corporation, or association, within said townsite, must be designated on the plat, showing the name or names of the possessor or occupant, and claimant, if other than the occupant, of each particular lot and parcel of land. In case of any disputed claim as to lots, lands, premises, or boundaries, the said surveyor, if the same be demanded by any person, shall designate the lines (in different color from the body of the plat) of such part of any premises so disputed or claimed adversely. A plat thereof must be made in triplicate, on a scale of not less than eighty feet to one inch, which shall be duly certified under oath by the surveyor, one of which shall be filed with the county clerk of the county wherein the town is situated, one must be deposited with the judge, and one must be deposited with the justice of the peace resident in or nearest to such town.

Sec. 3633. These plats are public records, and must each be accompanied with a copy of the field notes, and the county clerk shall make a record thereof in a book to be kept by him for that purpose. The surveyor must number the blocks, as divided by the roads and streets opened at the time of making such survey, and must number the several lots consecutively in each block, and all other parcels of land within said townsite surveyed as herein provided, which said numbers are a sufficient description of any parcel of land in said plat when mentioned by reference to such town plats.

Sec. 3634. Before proceeding to make such survey, at least ten days' notice must be given by the judge, by posting within the limits of such townsite not less than five written or printed notices of the time when such survey shall commence, and by publication thereof in a newspaper published in such town, if one there be. The survey of said town lands must be made to the best advantage, and at the least expense to the holders and claimants thereof; and the said judge is hereby authorized to receive bids for such surveying, and to let the same by contract to the lowest competent bidder.

Sec. 3635. All streets, roads, lanes, and alleys, public squares, cemeteries, parks, levees, school lots, and commons, surveyed, marked and platted, on the map of any townsite, as prescribed and directed by the provisions of this Article, are hereby declared to be dedicated to public use, by the filing of such town plat in the office of the county clerk, and are inalienable, unless by special order of the board of commissioners of the county, so long as such town shall remain unincorporated; and if such town at any time thereafter becomes incorporated, the same becomes the property of such town or city, and must be under the care and subject to the control of the council or other municipal authority of such town or city.

Sec. 3636. Such plat must show the same matters as are contained in Section 3134, Chapter VI., of this Title, and must be made, filed and kept in the same manner as prescribed in Section 3138, Chapter VI., of this Title.

Sec. 3637. Each lot or parcel of said land having thereon valuable improvements, or buildings ordinarily used as dwellings or for business purposes, not exceeding one-tenth of one acre in area, must be rated and assessed by the judge at the sum of one dollar; each lot or parcel of such lands exceeding one-tenth and not exceeding one-eigthth of one acre in area must be rated and assessed at the sum of one dollar and fifty cents; each lot or parcel of such lands exceeding in area one-eighth of one acre and not exceeding one-quarter of an acre in area must be rated and assessed at the sum of two dollars; and each lot and parcel of such lands exceeding one-quarter of an acre and not exceeding one-half of one acre in area must be rated and assessed at the sum of two dollars and fifty cents; and each lot or parcel of land so improved exceeding one-half an acre in area must be assessed at the rate of two dollars and fifty cents for each half an acre, or fractional part over half an acre; and every lot or parcel of land inclosed, which may not be otherwise improved, or uninclosed, claimed by any persons, corporation or association, must be rated and assessed at the rate of two dollars per acre or fractional part over an acre; and where, upon one parcel of land, there are two or more separate buildings, occupied or used ordinarily as dwellings, or for business purposes, each such building, for the purposes of this section, is considered as standing on a separate lot of land, but the whole of such premises may be conveyed in one deed; which moneys so assessed must constitute a fund from which must be reimbursed or paid the moneys necessary to pay the government of the United States for said town lands, and interest thereon, if such moneys have been loaned or advanced for the purpose and expenses of their location, entry, and purchase, and the costs and expenses attendant upon the making of such survey and recording thereof.

Sec. 3638. Any sum of money remaining, after defraying all the necessary expenses of location, entry, surveying, platting, and recording of lands, and the expenses of the judge hereinafter mentioned, must be deposited in the county treasury, to the credit of the fund of each particular town, and kept separate by the county treasurer, to be paid out by him only on the written order of such judge, until after the expiration of the time for a final settlement of the affairs of such town lands, as hereinafter provided; at which time any and all balances of moneys so remaining to the credit of each town shall be transferred by such county treasurer to the school fund of the particular school district in which said town is situated.

Sec. 3639. Every person, corporation, or association, claimant of any town lot or parcel of land within the limits of such townsite, must present to the judge, within six months after the plat has been filed in the office of the county clerk, his, her, or their affidavit, verified in person, or by duly authorized agent or attorney, in which must be concisely stated the facts constituting the possession or right of possession of the claimant, and that the claimant is entitled to the possession thereof, as against all other persons, to the best of his knowledge and belief, to which must be attached a copy of so much of the plat of the townsite as will fully exhibit the particular lot or parcel of land so claimed, with the abuttals; and every such claimant, at the time of filing such affidavit, must pay to such judge such sum of money as such judge shall thereon certify to be due for the assessment mentioned in Section 3637, of this Article, together with the further sum of five dollars, to be appropriated to the payment of the expenses incurred in carrying out the provisions .of this Article; and the judge must thereupon give to such claimant a certificate containing a description of the lot or parcel of land claimed, and setting forth the amounts paid thereon by such claimant. The judge must procure a bound book for each town in his county, wherein he must make proper entries of the substantial matters contained in every such certificate issued by him, numbering the same in consecutive order, setting forth the name of the claimant or claimants in full, date of issue, and description of lot or lots claimed.

Sec. 3640. If it is found that the amounts hereinbefore specified as assessments and fees for costs and expenses prove to be insufficient to cover and defray all the necessary expenses, the judge must estimate the deficiency, and assess such deficiency *pro rata* upon all the lots and parcels of lands in such town, and declare the same upon the basis set down in Section 3637, of this Article, which additional amount, if any, may be paid by the claimant at the time when the certificate hereinbefore mentioned, or at the time when the deed of conveyance hereinafter provided for, is issued.

Sec. 3641. At the expiration of six months after the issuance of the certificate mentioned in the preceding section, if there has been no adverse claim filed in the meantime, the judge must make, execute, acknowledge, and deliver to each claimant, or to his, her, or their heirs, administrators, or assigns, a good and sufficient deed of the premises described in the application of the claimant originally filed. No conveyance of any such lands, made as in this Article provided, concludes the rights of third persons; but such third persons may have their actions in the premises to determine the alleged interest in such lands against such grantee, his heirs, or assigns, to which they may deem themselves entitled either in law or equity. No action for the recovery of the possession of such premises, or any portion thereof, must be maintained in any court against the grantee named therein, or against his, her, or their assigns, unless such action is commenced within two years after such deeds have been filed for record in the office of the county clerk of the county where such lands are situated. Nothing herein must be construed to extend the time of limitation prescribed by law for the commencement of actions upon a possessory claim or title to real estate when such action is barred by law at the time of the passage of this Code.

Sec. 3642. Whenever mining claims have been located and held *bona fide* for mining purposes, such mining rights, according to the metes and bounds located and claimed, must not in any manner be affected by the provisions of this Article; nor must any sale be made, nor any title be conveyed by reason of any sale or pretended sale of such lands so claimed for mining purposes until after the occupancy of such mining claims has been abandoned by the holders thereof.

Sec. 3643. In all cases of adverse claims, or disputes arising out of conflicting claims to lands or boundary lines, the adverse claimants may submit the decision thereof to the judge by an agreement in writing, specifying particularly the subject matter in dispute, and may agree that his decision shall be final; in which case the said judge may hear the proofs, and must execute a deed in accordance therewith; but in all other cases of adverse claim, the party out of possession must commence his action in a court of competent jurisdiction within six months after the filing of the town plat in the office of the county clerk. In case such action be commenced, the plaintiff must serve a notice of *lis pendens* upon the judge, who must thereupon stay all proceedings in the matter of granting any certificate or deed until the final decision of such suit; and upon presentation of a certified copy of the final judgment of such court in such action, the judge must execute and deliver a deed of such premises in accordance with the judgment. In case no such action be commenced within the time herein prescribed, the judge must deliver his deed to the party in possession, as provided in Section 3641, of this Article.

Sec. 3644. The judge must give public notice, by advertisement for four weeks in some newspaper published in the county, if one there be, and if there be no newspaper published in said county, then by not less than five written or printed notices posted within the limits of such townsite, that the plat thereof has been filed in the county clerk's office; and if any person, company, or association, or other claimants of lands in such town, fails, neglects or refuses to make application to the judge for a deed, and to pay the snm specified, within six months after the filing of said plat, the judge must enter on his book the names of all such persons, with a description of the property or premises, and certify the same as delinquent for the amount of assessments certified to by such judge as due under Section 3637, of this Article; and at the expiration of thirty days after making such entries, if such application be not made and such assessment be not paid, the judge must advertise all such lots and parcels of land for sale in the same manner as real estate is required to be advertised under execution.

Sec. 3645. At the time of sale mentioned in said advertisement, the judge must sell all such parcels of land so remaining delinquent, by public auction, to the highest bidder for cash, at some public place within the limits of said townsite; and he must give to the purchaser at such sale a certificate of his purchase, setting forth therein a description of the premises sold, the amount paid, and that the same is subject to redemption, as prescribed in the next section; but no sale must be made for less than the whole amount of assessments, and the costs of making the sale, which costs must be divided *pro rata* among the several parcels offered for sale.

Sec. 3646. At any time within six months after such sale the original claimant is entitled to redeem such premises, by paying to the purchaser, or to the judge for the purchaser, double the whole amount of the purchase money; but in case no redemption be made, the purchaser, his heirs or assigns, is entitled to demand and receive from the judge a deed of such premises, which deed is absolute as against the parties delinquent, and entitles the grantee, his heirs, or assigns, to a writ of assistance from the District Court having jurisdiction of the premises.

Sec. 3647. If there be any unoccupied or vacant unclaimed lands within the limits of such townsite, the said judge must cause the same to be laid out and surveyed into suitable blocks and lots, and shall reserve such portions as shall be deemed necessary for public squares, parks, churches, cemeteries, levees, and school house lots; and cause all necessary roads, streets, lanes, and alleys to be laid out through the same, and dedicated to public use; and the said judge may sell the same in suitable parcels to possessors of adjoining lands, or to other persons, at a price not less than one dollar per acre or fraction of an acre; and in case two or more claimants apply for the same tract, or parcel of the same tract, he must sell the same by auction to the highest bidder; and if any such lands remain unsold at the end of six months after the filing of the town plat, the said judge must sell such vacant lands to the highest bidder for cash, and give deeds therefor to the several purchasers.

Sec. 3648. All school lots and parcels of land reserved for school purposes, as aforesaid, by order of the judge, must be conveyed to the school trustees of the school district in which such town is situate, without cost or charge of any kind whatever.

Sec. 3649. In case a vacancy occurs from any cause in the office of district judge during the pendency of any of the proceedings to be taken under this Article, upon the election or appointment of a successor, it is the duty of the county clerk to make out a certificate, under seal, showing the facts and name of such successor, and file the same in his office, and record such certificate in a book of deeds, and attach the original to the townsite book in his office.

Sec. 3650. All the clerical work under this Article must be performed by the clerk of the District Court, and the fees received therefor paid into the county treasury.

Sec. 3651. Every district judge, when fulfilling the duties imposed upon him by the Act of Congress aforesaid, and by this Article must keep a correct account of all moneys received and paid out by him. He must deposit all surplus money with the county treasurer of his county, and at the end of one year from the time when the town plat of any town is filed in the county clerk's office, he must settle up all the affairs pertaining to said town, and pay over to the county treasurer all moneys belonging to said town, for the use and benefit of the school district in which said town may be situate. If any claims to lands in such town are the subject of litigation, the same must be finally settled by such judge, whenever the final judgment has been rendered.

Sec. 3652. Whenever the affairs of any such town shall be finally settled and disposed of by such judge, he shall deposit all books and papers relating thereto in the office of the county clerk of his county, to be thereafter kept in the custody of the county clerk as public records.

Sec. 3653. No mere informality, failure, or omission, on the part of any of the persons or officers named in this Article, invalidates the acts of such person or officer, but every certificate or deed granted to any person, pursuant to the provisions of this Article, is conclusive evidence that all preliminary proceedings in relation thereto have been correctly taken and performed.

Sec. 3654. When the lands of such city or town are on a school section or subdivision thereof, and are owned by the State, the council may procure title, and purchase the same from the State, and dispose of the same in the manner provided in this Article, for disposing of lands purchased from the United States.

PART V.

The Definition and Sources of Law, Effect and Publication of the Codes, and the Express Repeal of Statutes.

Title I. *Definition and sources of the law.*
" II. *Effect of the Codes.*
" III. *Publication of the Codes, and Statutes continued in force.*
" IV. *Express repeal of Statutes.*

TITLE I.

DEFINITION AND SOURCES OF THE LAW.

Section 3754. Definition of law.
" *3755. How expressed.*
" *3756. Common law, when rule of decision.*

Sec. 3754. Law is a solemn expression of the will of the supreme power of the State.

Sec. 3755. The will of the supreme power is expressed:
1. By the Constitution.
2. By statutes.

Sec. 3756. The common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this State, or of the Codes, is the rule of decision in all the courts of this State.

TITLE II.

EFFECT OF THE CODES.

Section 3766. Construction of the Codes with relation to the laws passed.
" *3767. The Codes prevail.*

Section 3768. Construction of Codes with relation to each other.
" 3769. Conflicts between Titles, which to prevail.
" 3770. Conflicts between Chapters, which to prevail.
" 3771. Conflicts between Articles, which to prevail.
" 3772. Conflicting sections of the same Title, which to prevail.

Sec. 3766. With relation to the laws passed at the session of the Legislative Assembly at which the Political Code, Civil Code, Code of Civil Procedure, and Penal Code, are passed, such Codes must be construed as though each had been passed on the last day of the session.

Sec. 3767. If the provisions of any law passed at such session of the Legislative Assembly contravene or are inconsistent with the provisions of either of the four Codes, the provisions of the Codes must prevail.

Sec. 3768. With relation to each other, the provisions of the four Codes must be construed (except as in the next two sections provided) as though all such Codes had been passed at the same moment of time, and were parts of the same statute.

Sec. 3769. If the provisions of any Title conflict with or contravene the provisions of another Title, the provisions of each Title must prevail as to all matters and questions arising out of the subject matter of such Title.

Sec. 3770. If the provisions of any Chapter conflict with or contravene the provisions of another Chapter of the same Title, the provisions of each Chapter must prevail as to all matters and questions arising out of the subject matter of such Chapter.

Sec. 3771. If the provisions of any Article conflict with or contravene the provisions of another Article of the same Chapter, the provisions of each Article must prevail as to all matters and questions arising out of the subject matter of such Article.

Sec. 3772. If conflicting provisions are found in different sections of the same Chapter or Article, the provisions of the section last in numerical order must prevail, unless such construction is inconsistent with the meaning of such Chapter or Article.

TITLE III.

PUBLICATION OF THE CODES.

Section 3782. Codes not published as part of the statutes.

Sec. 3782. The Codes must not be published as part of the statutes, but provision must be made by law for their publication in separate form.

TITLE IV.

EXPRESS REPEAL OF STATUTES.

Section 3792. Repeal of repealed statutes not to imply that they were in force.
" 3793. Express repeal of statutes to be provided for.

Sec. 3792. The repeal of any statute or part of a statute heretofore repealed must not be construed as a declaration, express or by implication, that such statute or part of a statute has been in force at any time subsequent to such first repeal.

Sec. 3793. The express repeal of statutes will be provided for by a separate statute, and such statute, after its passage, must be construed in the same manner and must have like effect as if it were part of this Code.

INDEX

TO

POLITICAL CODE.

INDEX.

[THE REFERENCES ARE TO SECTIONS.]

ABROGATION,
- of previous statutes by this Code, extent of........ 17

ABSENCE,
- from State generally........ 526
- of certain officers, beyond limited period........ 526
- from drills........ 1452

ACCOUNT,
- to be kept by all officers of executive department and semi-annual reports. 191
- of State officers must be itemized........ 642
- against county, same........ 2901
- against city........ 3301, 3302

ACCRUED RIGHT,
- how affected by this Code........ 7, 17

ACT,
- citing this, mode of........ 19
- creating this Code, title and divisions of........ 1
- how designated when cited, mentioned or amended........ 19
- divisions of this........ 1
- title of this........ 1
- repeal of section of, repealed........ 182

ACTION,
- pending how affected by this Code.... 7

ACCOUNTS,
- see claims........ 410-432, 2901-2903

ADDITIONS,
- to cities and towns, how made ...3324, 3327
- plats........ 3530, 3543

ADJUTANT GENERAL,
- see under militia........ 1373, 1480-1482

ADMINISTRATOR,
- assessment of, in representative designation........ 2428
- taxes of estate, required to pay........ 2559
- see public administrator........ 3090-3109

AFFIRMATION,
- oath as used in this Code includes..... 16

ALDERMAN,
- of city or town........ 3335-3337, 3344, 3357
- salary of........ 3357
- not to hold any other office........ 3365

AGRICULTURAL COLLEGE OF MONTANA,
- established........ 990
- control and management........ 991

ALLEGIANCE,
- definition of........ 46
- renunciation of........ 47

AMENDMENTS,
- to section or portion of, construed as if new portions then enacted........ 177
- of repealed section........ 180

ANIMALS,
- auction sales of, book of........ 2283
- branding........ 1950-1955
- hides of cattle, preservation and exhibition of........ 1954
- see auction........ 2270-2292
- trespassing of, upon private property........ 2166-2175
- bounty for killing wild........ 2060-2071
- diseased not to run at large........ 2047
- rams and he-goats not to run at large.. 2044
- penalty........ 2045

ANIMALS—Continued.
- liability to civil damages........ 2046
- sheep, diseased........ 2022-2038
- estrays........ 2049-2055
- trespassing, may be retained........ 2175
- damages, owners liable........ 2174
- see bounty for killing wild animals........ 2060-2071
- see game and fish........ 2073
- see game and fish warden........ 2075 2080
- see stock commissioners........ 1960-1967
- stock inspector and detective........ 1970-1973
- tax levy for........ 1980-1981
- deputy inspector........ 2022-2038
- brands and marks........ 1950-1955
- veterinary surgeon........ 1986-2004

APPROPRIATION BILLS,
- items........ 166, 167

APPORTIONMENT,
- highway or road funds........ 1812

ARBITRATION,
- state board of, how composed, by whom appointed, and term........ 2218
- qualifications........ 2219
- board how organized and oath........ 2220
- settlement of controversies........ 2221
- application, how made........ 2222
- report........ 2223
- decision, when binding........ 2224
- special board, parties may agree to.... 2225
- compensation........ 2226

ARBOR DAY,
- day designated........ 2185

ARBOR CULTURE,
- see tree planting and arbor culture........ 2185, 2186

ARMS,
- see under national guard........ 1484, 1483, 1480, sub. 9
- arsenals........ 1484

ASSEMBLY,
- see Legislative Assembly........ 90-97
- districts, see senatorial and representative districts........ 57, 58, 59

ASSESSMENT,
- see under revenue........ 2410-2441
- for streets in cities and towns........ 3435-3446
- book, see under revenue........ 2442-2446
- highways and roads........ 1755-1758

ASSESSOR,
- assessment, see under revenue........ 2410-2441
- assessment book, see under revenue........ 2442-2446
- bond of........ 2941
- deputies allowed........ 3138
- duties of, where prescribed........ 3115
- deputies of........ 2693
- election of, time and term........ 2925
- military roll, making out, etc........ 1352
- penalty for neglect or refusal........ 1353
- revenue, functions concerning, see under revenue........ 2400-2699
- salary........ 3133
- settlements of........ 2691
- statistics, duties as to........ 2192-2194
- see collection of taxes by........ 2625-2633
- see poll taxes, duties as to........ 2638-2662
- taxation, see revenue........ 2400-2699

ASYLUM,
- see insane asylum 1550, 1577
- deaf, dumb and blind asylum 1621, 1627

ATTACHMENT,
- withholding proceedings from public ... 641

ATTORNEY,
- admission of, where prescribed 515
- see county attorney 3060, 3065
- law, at, provisions for admission and duties of, where contained 515
- certain county officers prohibited from acting as 2951

ATTORNEY GENERAL,
- board of examiners ex officio member of 209, 285
- commissioners for the insane, deaf, dumb, and blind 285
- of board of equalization 204
- of education 930
- of pardons 210
- of land commissioners 211
- of state prison commissioners 209
- civil executive officer is 198
- duties of 285
- as to escheats 288
- as to public lands 2335
- election mode of, prescribed by Constitution 200
- contesting 145, 146
- escheats, to institute and conduct investigations for discovery of 288
- to sue for recovery of same 288
- ex officio member of board of examiners 209 285
- member of board of State canvassers .. 867
- generally 285
- official bond 287
- report of 187, 191
- residence of 525
- salary, annual, to include ex officio services 286
- Supreme Court reports, entitled to one volume and to one volume of laws and reports 239
- vacancy in office of filling 623

AUCTIONEERS,
- See Under Auctions.

AUCTIONS,
- application for license, original 2273
- application for renewal of license 2274
- assistant, when may be employed 2278
- bond and license upon becoming 2270
- bond of nature, approval and filing ... 2271
- bond, action on by party aggrieved or damaged 2291
- book for live stock, kept by 2283
- book of sales 2284
- compensation of 2285
- crier for, employment of 2289
- excessive charge by, penalty for 2285
- ex officio 2277
- frauds and penalties 2289, 2291
- license, when unnecessary 2272
- license, original application and verified statement accompanying 2273
- license, application for renewal of and verified statement accompanying 2274
- license, renewal of 2275
- license, penalty for exceeding sales of class 2275
- license, transfer of prohibited 2276
- license use of for business in several places prohibited 2276, 2278
- license classification and amount of 2736-2762
- penalties, recovery and disposition of .. 2290
- place of business, more than one prohibited 2275
- designating 2280
- only certain goods may be exposed for sale at different place 2281
- pre-requisites to becoming 2270
- qualifications for becoming 2270
- report of sales, quarterly by 2286
- statement, verified, of amount of monthly sales proposed to be made, accompanying original application for license 2273
- statement of average monthly receipts from sales, accompanying application for renewal of license 2274

AUCTIONS—Continued.
- sales, book of 2284
  - and see 2283
- commission of auctioneer on 2285
- places for certain, designated by municipal authorities 2282
- regulations respecting 2280-2286
- report of 2286
- see license 2736

AUDITOR,
- see State Auditor 254

BALLOTS AND VOTING,
- see elections 785-815
- official 795

BILLIARD TABLE,
- license for keeping 2738

BILLS
- see legislative bills 165

BIRTHS, MARRIAGES AND DEATHS,
- births, physicians and professional midwives to keep registry of 1910
- contents of such registry 1910
- when made by parents 1913
- deaths, who to keep registry of 1911
- marriages, registry of, to be kept by those performing the marriage ceremony 1909
- contents of same 1909
- county clerk to keep separate registers of births, marriages and deaths 1914
- contents of 1914
- repetition in, avoidance of 1914
- register of births, marriages and deaths, quarterly filing of certified copy of 1912
- what such certificates must specify 1912
- separate registers kept by recorder 1912-1914

BLACKLISTING,
- see employer and employe 2263 2264

BOARD OF EXAMINERS,
- see examiners, board of 410-431

BOARD OF STATE CANVASSERS,
- see elections 867, 868

BOATS,
- vessels, steam, carried by 1686 1687, 1688, 1689

BONDS,
- arms and equipment on receiving 142
- auctioneer 2270, 2271
- keeper of ferry 1869
- of city or town 3510-3524
- of county officers 3130, 3133, 3190
  - See Salaries and Fees of Officers.
- school, see schools, public 1223-1278
  - See Funded Debt.
- see county finances, bonds and warrants 2860-2878
  - See Indebtedness.
  - See Official Bonds.

BOARDS,
- of State prison commissioners, duties, where prescribed 410
- of State land commissioners 3320-3384
- of education, duties, where prescribed 438, 930-937
- of equalization, duties where prescribed 437, 2500-2510
- of county equalization 2485-2495
- of county commissioners, see under counties 2835
- of examiners 410-444
- of medical examiners 212, 390-405
- of commissioners of insane deaf, dumb and blind 1621-1627
- of health 1900-1904
- of stock commissioners 1960-1967
- of arbitration 2218 2220

BOILERS.
- inspector of, see inspector of boilers .. 340-348

BOOKS.
- official, and papers, possession of 628
- enforcing delivery of, to successor ... 628 630

BOUNDARIES,
- city, changing, See Cities and Towns
- county, see under counties 2777-2792

BOXES, BOTTLES AND SIPHONS,
- marks and devices to be filed with the Secretary of State 2200
- penalties 2201
- election precincts, of, changing 717
- consolidating 717
- defining 717

BRANDS.
see marks and brands. 1950-1955
BRIDGES,
see highways and roads.... 1850-1855
see toll roads and bridges. 1883-1886
in cities and towns how constructed... 3454
BRIGADES,
see under national guard.... 1371
BUSHEL,
see under weights and measures..2094, 2099
BUTCHERS,
to keep record, what.... 1955
BOUNTY,
for killing wild animals 2060
exhibition of skin.... 2061
affidavit and bounty certificate.... 2062
affidavit of freeholders 2063
duties of justice of the peace.2064, 2065, 2066
punch ears 2064
make certificates 2065
keep record of skins.... 2066
to require proof 2067
proof of genuineness.... 2068
forging, penalty for.... 2069
patching penalty for 2070
perjury.... 2071
BUILDINGS,
public, see public institutions....
....1030, 1031, 1055-1078, 1021-1027
CADETS,
company of 1456
CANDIDATES,
and questions for election, see elections
....765-777
CANVASS,
of votes and of returns, see under elections.... 825-840
CAPITOL,
See Seat of Government.
CAPITOL,
see State capitol.... ....70-74, 90
CATTLE,
see under animals. 1950-2047
CEMETERIES AND SEPULTURE,
cemeteries public, care and control of. 1924
rules and regulations therefor.... 1925
sextons etc., for.... 1925
register of interments in 1926
cemetery, what constitutes.... 1921
surveying laying out and dedicating public lands for.... 1922
recording survey. etc 1922
purchase or donation of land for.... 1923
grounds cemetery, title to.... 1920
interments, public register of.... 1926
penalties 1927
CENSUS MARSHALS,
see under schools, public....1110-1117
CERTIFICATE,
bills, legislative, on....167, 169
election of. 861
by Secretary of State 238
to legislature....91, 94
to congress.... 912
of school trustees.... 1081
firemen of, exempt and active.... 2158
insanity of.... 1595
notarial 489
notary, of, qualifications by.... 494
purchase of, see under lands, State.... 2332
registration of.... 702
sale of lands for taxes, of....2580-2583
school tax, of result of election for. .. 1251
teaching, for, see teachers, under schools, public.. 1216-1223
transfer of elector from one district to another 702
CHECK LISTS,
see elections.... .. 700, 701
CHAIN,
see under weights and measures.... 2088
CHALLENGE,
see under elections....695, 699, 700, 806-812
CHARGES,
see under county: see also, claims.2901-2903
CHAPLAIN,
see under Legislative Assembly....100, 101
CHIEF OF FIRE DEPARTMENT,
appointment of and, duties.... 3407
chose in action, see things in action....
....2439, 16, sub. 3
CITIES AND TOWNS,
general powers.... 3300
of cities.... 3301
of towns 3302
how named and general corporate powers.... 3303
classification of 3310
basis of 3311
organization of.... 3320-3327
steps to be taken to incorporate.... 3320
election, how conducted.... 3321
first election of officers....3322, 3323
additions to.... 3324-3327
officers of, of first class 3335
of second class.... 3336
of town. 3337
trustees of public library.... 3338
council, power to abolish office.... 3339
to consolidate offices.... 3340
to be divided into wards.... 3341
how divided and change of boundaries 3342
annual election, terms of office.... 3343
terms of aldermen, how decided.... 3344
terms, when to begin.... 3345
who eligible.... 3346
registration of electors 3347
qualification of electors 3348
election, how conducted and canvass
.... 3349, 3350
oath and bonds, vacancy.... 3351
when duties of office begin.... 3352
vacancy, how filled.... 3353
accountability of officers provided for. 3354
official bonds how given.... .. 3355
salaries must be fixed.... 3356
salary of city and town officers....3357-3363
salaries must not be increased or diminished.... 3364
alderman and city officers not to hold any other office.... 3365
must take constitutional oath.... 3366
executive officers of.... 3375
powers of mayor.... 3376
to preside at council, sign journal and warrants.... 3377
council may elect president.... 3378
city or town clerk, his duties.... 3379
city or town marshal, duties.... 3380
city attorney, duties.... 3381
city or town treasurer, duties 3382
duties of other city or town officers.... 3383
powers of council.... 3390
what constitutes quorum.... 3391
may prescribe rules.... 3392
ayes and noes must be called, majority elects.... 3393
style of ordinance.... 3394
ordinances, how passed 3395
officers must not be interested in contracts 3396
contracts must be let to lowest bidder.. 3397
oath of contractor.... 3398
alteration and modification of contracts, how made.... 3399
no allowance for extra work.... 3400
accounts must be allowed.... 3401
accounts must be itemized and sworn to 3402
indebtedness not to exceed amount in fund 3403
special privileges must not be granted. 3404
annual tax, not to exceed.... 3405
special taxes and and assessments.... 3406
council may appoint chief engineer of fire department.... 3407
taxation, assessments and licenses in..
....3415-3455
annual tax, equalization and collection. 3415
levy to be made, how.... 3416
basis of taxation, in.... 3417
duty of county assessor.... 3418
county assessor must pay over taxes collected.... 3419
equalization of taxes, in.... 3420
affidavit of aggrieved person.... 3421
duty of county clerk, duplicate assessment book 3422
how furnished and form of.... 3423
county clerk must deliver book with affidavit attached.... 3424
city or town treasurer must collect tax from book.... 3425

CITIES AND TOWNS—Continued.
power of the city or town treasurer to collect.... 3426
tax levy to be made, when.... 3427
fiscal year.... 3428
annual appropriation, when and how made.... 3429
road poll tax.... 3430
poll tax, how levied and collected.... 3431
duties of the city or town clerk and treasurer.... 3432
poll tax, how expended.... 3433
work on the streets, etc.... 3434
system of street work....3435 3436
special assessment for same, how collected.... 3437
costs of public improvements, how apportioned.... 3438
opening and grading alleys, how paid for.... 3439
opening and grading streets, how apportioned.... 3440
how paid for.... 3441
cost of paving curbing, sidewalks, etc., how apportioned.... 3442
when to be paid out of the general fund 3443
special taxes and assessments, how levied and collected.... 3444
when collected and by whom.... 3445
treasurer must make settlement.... 3446
sewer system.... 3447
public sewers, how established and constructed.... 3448
district sewers how established.... 3449
district sewers, how constructed and cost apportioned.... 3450
private sewers, regulations for.... 3451
sewer taxes, how listed and collected.. 3452
taxes, for paving, for taking private property for public use.... 3453
construction of bridges, how paid.. 3454
license tax may be levied.... 3455
police court of.... 3465
general criminal jurisdiction.... 3466
jurisdiction for violation of ordinances and civil and criminal jurisdiction... 3467
when judge cannot act.... 3468
preliminary examination.... 3469
proceedings in criminal actions.... 3470
proceedings in civil actions.... 3471
who to prosecute.... 3472
damages caused by change of grade, and proceedings....3480-3485
proceedings for the advancement of, from one class to another.... 3500
resolution declaring advancement.... 3501
new officers when elected.... 3502
old ordinances remain in force.... 3503
may be reduced in class, proceedings 3504
disincorporation of, proceedings.... 3505
property and money, to be turned over, how.... 3506
indebtedness of, limited.... 3510
money, borrowed, must be used for specific purpose.... 3511
power to borrow money, limitation of.. 3512
for public improvements, question to be submitted to electors.... 3513
election, and manner of conducting... 3514
bonds to be sold on notice.... 3515
form of bonds and what to contain.... 3516
proceeds of sale, how applied.... 3517
tax must be levied and interest and principal paid.... 3518
bonds redeemable and payable, when and how.... 3519
additional tax for sewerage and water works.... 3520
election and proceedings.... 3521
funded debt.... 3522
proceedings to fund.... 3523
bonds issued, payment, redemption... 3524
plat or addition to, to be made and recorded.... 3530
what plat must show.... 3531
survey, who to make and what to contain....3532, 3533
certificate of surveyor.... 3534
certificate of dedication.... 3535
mortgagees must sign and release.... 3536
plat must be approved and certificate.. 3537

CITIES AND TOWNS—Continued.
plats must be made on mounted drawing paper and filed and recorded.. 3538
no lots to be sold until plat recorded, penalty.... 3539
donation or grant on plat has the effect of a deed.... 3540
new survey and plat may be ordered... 3541
council may prescribe form of plat.... 3542
lands within city or town may be platted by owner.... 3543
council of may discontinue streets, 3560 3561
existing cities and towns reorganized under this Title....3562, 3563
old officers continue in office, election.. 3564
effect of reorganization.... 3565
responsible for damages by mobs or riots.... 3566
judgment against, how paid.... 3567
judgment may be funded.... 3568
free public library.... 3569
question to be submitted.... 3570
when and how established.... 3571
sites of, on public lands....3600-3620
council to enter land in land office.... 3600
filing approved plat.... 3601
surveys.... 3602
plat, what to contain.... 3603
notice of survey.... 3604
what dedicated to public use.... 3605
plat, what must show.... 3606
assesssment to pay expenses.... 3607
claims for lands.... 3608
deficit in expenses, how collected.... 3609
deeds to be given after six months, adverse claims.... 3610
mining claims.... 3611
settlement of adverse claims.... 3612
notice of filing plat.... 3613
sale of delinquent lands.... 3614
redemption.... 3615
unclaimed lands.... 3616
school lots.... 3617
surplus of money received to be paid into treasury.... 3618
informality not to invalidate.... 3619
site on school lands, proceedings.... 3620
town sites in unincorporated towns.3630, 3654
district judge to enter at land office.... 3630
estimate of expenses.... 3631
survey of lands.... 3632
plats, what to contain.... 3633
notice of survey to be given.... 3634
what dedicated to public use.... 3635
what plat must show.... 3636
assessment for expenses.... 3637
surplus, what to be done with.... 3638
claimants to make affidavits.... 3639
additional assessments to pay expenses 3640
deeds to be delivered in six months, adverse claims.... 3641
mining claims.... 3642
adverse claims, actions for possession.. 3643
notice of filing plat.... 3644
sale of delinquent lands.... 3645
redemption.... 3646
unclaimed lands.... 3647
school lots.... 3648
vacancy in office of judge.... 3649
clerical work must be performed by clerk of district court.... 3650
accounts of judge.... 3651
deposit of books with county clerk, when.... 3652
informality not to invalidate.... 3653
sites on school land proceedings.... 3654
inhabitants of competent jurors.... 3572
CITY ATTORNEY,
salary of.... 3361
duties of.... 3381
to prosecute in police court.... 3472
CITY OR TOWN CLERK,
salary of.... 3363
duties of.... 3379
duties as to taxes and assessments....3431 3432, 3444, 3452, 3453, 3455
CITY OR TOWN MARSHAL,
salary of.... 3362
duties of.... 3380
CITY OR TOWN TREASURER,
salary of.... 3360
duties of.... 3382

CITY OR TOWN TREASURER—Cont'd.
collection of taxes by.......... ..... 3424, 3425, 3426, 3431, 3432, 3437, 3444, 3445, 3446, 3452, 3455
CITIZENS,
allegiance of see under State.......... 46
people consist of two classes of........ 40
State of, comprise whom 41
allegiance of. 46, 47
States, other of..... 51
United States, of 41
not a citizen of this State, rights and duties of 51
CLAIMS,
county, against, see under county. 2901–2903
examiners, before board of..........410–432
military.. 1416
See Mines and Mining.
CLASSIFICATION,
public officers. 80
salaries 3133
of counties 2938
of cities and towns 3310 3311
cities and towns may be advanced from one class to another......... ...3500–3503
may be reduced. 3504
CLERK, COUNTY,
see county clerk................ 3007–3027
see clerk district court.............3050, 3051
see contested elections 130, 140
see salaries and fees of officers....3130–3196
CLERICAL HELP
board of examiners may employ for officers 444
CLERK OF THE SUPREME COURT,
bond of, official........................ 466
duties of 461, 463
ex officio reporter of decisions of supreme court.......................470–479
election and term of office 460
fees of 462
disposition of......... 462
account and settlement of............. 464
quarterly report of fees....... 464
salary not paid without such settlement 464
keeper of seal and records............ 463
residence of 525
salary................................ 465
withheld until fees settled for......... 464
vacancy in office of, mode of filling.... 623
CLERK OF HOUSE OF REPRESENTATIVES,
see under Legislative Assembly.....101, 108
assistant clerk, duties.......... ...109 116
as to bills at close of session........... 116
compensation.............. ....122, 123
assistant 122
CLERKS,
see clerk of district court... ......3050, 3151
appointment of, by officers of county mode of making............. 545
city clerk, appointment, term and bond of, choice of, duties of, compensation of, see deputies....................3137, 3138
county clerk, see county clerk.....3007–3027
courts of where contested election notifying disbursing officers of.......... 568
election of, see under elections..735, 805, 814
legislative, see under legislative assembly 108, 114, 116, 109
oath of office, by 555
official bond of 617
police court of, see police court.......
commissioners, clerk of................
See County Commissioners.
supreme court, clerk of, see clerk of the supreme court.....................461, 463
school districts.......................1120–1122
tenure of office, of...................... 215
CLERK OF THE DISTRICT COURT,
bond of........................611, 2941
certificate of qualification of notary given by 494
contested elections, functions in....... 131, 132, 133, 136, 138
county seat, office at 2932
duties of 3050
duties as to jurors...................... 3181
duties as to witnesses.................. 3186
deputies allowed... 3137
elections, functions concerning, contested, see that head 130–140
CLERK OF DISTRICT COURT Cont'd.
generally............................. 3050
law prohibition to practice........... 2937
salary.... 3133
fees to be collected for county, see salaries and fees, officers...........3172, 3173
fees to be paid monthly into treasury.. 3142
fee book and affidavit................. 3143
fees to be posted in office....... 3151
fees must be paid in advance 3147
fees, none other allowed 3152
fees, statement of to board of county commissioners 3186
witnesses, to keep record of attendance 3187
witness, certificate of amount due..... 3187
COAL MINES,
regulations of 2230–2245
COAL OIL,
regulating the sale of coal or kerosene oil............ 2250–2252
CODE,
See Political Code.
CODES,
acts continued in force by............. 19
articles, conflicting, of same.......... 3771
chapters, conflicting, of same......... 3770
conflict of, construction where......... 3766
construction of the Codes, with relation to the laws passed at the session when the Codes are passed.......... 3666
Codes prevail................ 3667
effect of.... 3766–3772
publication of.... 3282
sections, conflicting of same........... 3772
statutes continued in force by.... 18
titles, conflicting, of same.... 3769
CODICILS,
included in term "will" in this Code.. 16
COLLECTION,
license tax, ferry, of.................. 1870
licenses, of 2720–2758
road tax, of 1725–1731
taxes of, property, see under revenue 2580–2594
poll, see under same head...2639, 2645, 2646
COLLECTOR OF TAXES,
see county treasurer 2950
COLLEGE,
see Agricultural College of Montana 990, 991
COLLISION,
see under navigation................... 1675
COMMANDER-IN-CHIEF,
Governor is, of militia................. 1360
Governor out of State..... 1361
must collect arms........ 1362
arsenal, must provide 1363
bond, must give 1364
Secretary of State, duty of............ 1365
State faith pledged.................... 1366
COMMISSION,
auctioneers, of...... 2285
contested election case, in, to take testimony.. 132
military officers, of, see militia ....
officers of, see militia ....
COMMISSIONERS,
See County Commissioners, State Board of Land Commissioners, Board of State Prison Commissioners.
COMMISSIONERS OF DEEDS,
appointment and term of....... 505
commission, certified copies of certain laws transmitted with 510
fees of, same as those of notaries 509
fee to be paid to Secretary of State on appointment 511
force and effect of acts of, same as if performed in this State.. 507
Governor may remove.... 505
impression of seal when filed.... 508
official oath, when and where filed..... 508
powers of 506
Secretary of State, oath filed in office of.................... 508
to transmit with commission certified copies of pertinent sections of this Code............................ .. 510
COMMISSIONER OF AGRICULTURE, LABOR AND INDUSTRY,
duties, to be prescribed............... 442

COMMITTEE,
- legislative, members may administer oaths........................ 107
- attendance and examination of witnesses before.......... ....156, 160

COMMON LAW,
- derogation of, construction of statutes in 4
- rule of, which is inapplicable to Code 4
- rule of decision as.................... 3756

COMMON SCHOOLS,
- See Public Schools

CONSTITUTION,
- custody of enrolled copy of 237

CONSTRUCTION,
- bonds, official, of 584, 586
- Code, of this, See Under Political Code.
- Codes, of.........................3766-3772
- contracts of, regarding weight and measure.................. 2098
- revenue, of title on..................... 2400
- words and phrases of 16

CONTESTING ELECTION,
- for Governor and Lieutenant-Governor 145, 146
- for members of the legislature...... 131-139
- of State officers.....................145, 146
- clerk of district court of county where cause of contest originated, statement must be filed with 131
- thereupon to issue commission to take depositions.. 132
- copy of statement certified by, served upon person whose election is contested............................ 133
- sealed depositions and commission transmitted to...................... 138
- documents sealed up, indorsed and transmitted by to Secretary of State. 138
- commission to take testimony, issuance to justices of the peace............ 132
- vacancy in, how filled. 136
- attendance of witnesses for, enforced.. 134
- justices to meet and take depositions.. 135
- continuance and close of the examinations,............ 135
- depositions, by commission..........132, 135
- either party may take before trial. 139
- fees of officers performing services in a contested election case 137
- justices of the peace, two of county where cause of contest originated, commission directed to 132
- power to issue subpoena and compel attendance and decorum of witnesses 134
- examination by and depositions before.... 135
- disposition of depositions by 134
- another justice may act in place of either................................ 136
- notice of contest to be served on person whose election is contested...... 133
- other evidence, House before which contest pending may take. . 139, 140
- presiding officer of House must immediately on receipt of papers concerning, give notice of same to House... 138
- special depositions delivered to........ 139
- qualified voter of territory to be represented may contest.................. 130
- Secretary of State to deliver documents concerning to presiding officer of House interested 138
- same with special depositions......... 139
- sheriff to serve notice of contest....... 133
- to serve subpoena.......... 134
- statement of grounds of contest to be filed, when and with whom.......... 131
- must be verified, ... 131
- certified copy to be served with notice of contest on person whose election is contested...................... 133
- who may contest...................... 130

COMMUTATION,
- See Highways and Roads.
- highway labor, for.................... 2657

COMPANIES.
- Fire, See Under Fires and Firemen.
- Militia, See Under National Guard.

COMPENSATION,
- Land, Officers and Employes, of, See Under Names of Various Officers.
- See Fees and Salaries.

COMPUTATION,
- of time.................................. 11

CONDEMNATION,
- of State land for government purposes. [illegible]
- of property by State, authorized...... [illegible]

CONGRESS,
- election of member, see under elections...............................910, 912
- congressional district................. 61

CONSTABLES,
- generally 3111
- justices' courts, to attend, etc. 3120
- law, prohibited from practicing....... 2937
- powers, duties and liabilities, provisions governing......................... 3111
- fees of.................................. 3179

COPYRIGHT,
- supreme court reports......... 477

CONTRACTS,
- certain officers prohibited from being interested in.................143, 2907, 3396
- to be let to lowest bidder 3397
- oath of person making with city or town........................ 3398
- alteration or modification of, made with city or town 3399
- no allowance for extra work on, in city or town 3400
- for taking care of insane 1553-1559
- for supplies for State prison.......... 1819
- for supplies for State.... 434-440
- for supplies for county................ 2853

CORONER,
- inquests, holding required............. 3080
- interment of decedent, by, provision for............................ 3081
- money or other property found on decedent, delivery of 3082
- enforcing such delivery............. ... 2964
- disposition of.... ....2965 2966
- statement of amount and disposition of 3083
- sheriff as.......... 3085
- substitute for, justice of the peace... . 3084
- fees of................... 3175
- must keep register 3086
- what register must contain........ . 3080

CORPORATION.
- word "person" in this Code includes.. 16

CORPORATIONS,
- municipal, see cities and towns ... 3300-3653

CORPORATE POWERS,
- of cities and towns...............3300-3303

COUNCIL OF CITY OR TOWN,
- powers of.................... 3390-3406
- must not grant special privileges...... 3404
- may appoint chief of fire department... 3407
- may discontinue streets...........3560, 3561
- to enter land for town sites 3600

COSTS,
- on removal of criminal actions.....2202, 3303

COUNTIES,
- bodies corporate.... ....2802, 2830
- See Corporate Status of.
- ferry connecting, license and license tax of 1860, 1870
- boundaries, see that head.........2777-2791
- certain terms used in defining 2773-2776
- surveys to establish unsettled boundaries. 2800
- report to governor on disagreement of commissioners as to survey......... 2801
- governor to determine boundaries..... 2802
- approved surveys conclusive...... 2803
- surveys heretofore made declared valid 2804
- cost of surveys apportioned........... 2805
- boundaries altered, collection of taxes. 2806
- classification of.....................3132, 2938
- corporations, as....... 2800
- county, defined........................ 2770

County Seat,
- removal...........................2807-2815
- petition for 2807
- board of county commissioners to order election................................ 2808
- election, notice of, how held and conducted 2809
- voter to vote for place he prefers...... 2810
- notice of result 2811
- place chosen to be county seat. 2812
- statement of result and notice transmitted 2813
- second election in four years.......... 2814

COUNTIES Continued.
subsequent removal of county seat, ... 2815
Division
division of 2806
collection of taxes previously levied... 2806
division of State into 2772
Government,
of........ 2770-3117
name of corporate 2802
named, bounded and constituted where 2770-2792
new, formation of 2806
powers of, see corporate status of 2820 2830
railroads operating in several assessment. 2455
senatorial and representative districts composing, see senatorial and representative districts........... 57, 59
commissioners, board of see that head 2785-2910
terms used in defining boundaries.2773-2776
accounts for county charges........... 3200
enumeration of county charges.... 3201
removal of criminal actions........... 3202
proceedings to collect such costs...... 3203
Boundaries and county seats of,
Missoula county........ 2777
Deer Lodge county.................... 2778
Beaver Head county......... ....2779, 2780
Madison county...................... 2780
Jefferson county 2781
Lewis and Clarke county.... .2782, 2792
Meagher county..............2783, 2790, 2792
Gallatin county......................... 2784
Choteau county.. ... 2785, 2790 2792
Dawson county.......... 2786
Custer county 2787
Silver Bow county...................... 2788
Yellowstone county...................... 2789
Fergus county.. ....2790, 2792
Park county 2791
Cascade county.......................... 2792
Corporate status,
of...... 2820-2830
body, politic and corporate, every county is 2820
classification of. 2938-3132
execution not to issue against......... 2829
judgment against, execution not to issue 2829
inhabitants competent witnesses and jurors 2828
limit of indebtedness.... 2826
loan, temporary, restrictions on making. 2824
loaning credit or giving same, restrictions on 2824
money illegally paid, recovered........ 2830
money borrowing, restrictions upon.... 2825
name, corporate of 2822
powers of extent of. 2821
by whom exercised..................... 2821
enumeration of.... 2823
process, service, how made........... 2827
unauthorized order for payment of moneys suits to recover sums paid or restrain payments 2830
County Commissioners,
board of, generally 2835
county must have.... 2835
members of....... 2835-2838
chairman of. 2839
clerk of 2842
books of.... 2844
bonds, examination of by district judge 2838
bonds of........................... 2838
bonds, where filed.... 2838
meetings of.......... ....2841 2845
annual examination of accounts by.... 2906
books kept by board........ ... 2844
records and accounts open to inspection....... 2841
bonds issue and redemption of....2860-2878
blanks for assessment, must furnish assessor........................... 2420
boundaries, disputed, county, functions concerning 2800-2804
bridges, functions concerning, see under bridges....... 1850-1855
cemeteries, functions concerning..1921-1926
chairman of, permanent and temporary 2840

COUNTIES—Continued.
records must be signed by, and by clerk.................. 2842
claims against county, power over.2901-2903
must be itemized. 2901
opposition to allowance of..... 2900
prerequisites to passing upon. 2901
rejection or partial disallowance of.... 2901
appeals ... .2903, 2904
presented by commissioners.... ... 2908
Clerk of, county clerk is.... 2842
records must be signed by chairman, and. 2842
duties of....... 2843
compensation of... ....2847. 3196
classification of counties, duties as to.. 2940
military roll, functions concerning.1355, 2844
road district. books kept by.... 1704
revenue, functions concerning 2446, 2494, 2495
county, powers of alone exercised by.. 2821
county seat, removal of, functions in.. .... 2807, 2808, 2809, 2801, 2813
debts and liabilities, contracting, restrictions on.... 2826
deputies, board to allow when.... 3135
compensation of.................... 3139
affidavit of.... 3146
districts must lay out registry. 685
dereliction of, penalty for............. 2910
duties as to reports of officers 2955
district attorney legal adviser of...... 3062
Election, time of and term of office.. 2926
elections, proclamations for.........655, 656
compensation of officers of fixing, etc. 663
blanks for, providing 663
precincts for. 715 721, 2850
judges of appointing from different parties 730 731, 732 733
canvassing returns 855-5861
must appoint place for.... 719
poll book must furnish..... 756
form of 758
expenses of sheriff 3140
elector of district represented, commissioner must be.... 2836
ferries toll, functions concerning.1860-1875
finances, of 2860 2878
health matters, functions concerning 1900-1904
highways, functions concerning, see under highways............ .1700 1892
interest in official property or contracts prohibited..... 2907
board must not allow salary until duplicate receipt filed 3145
ex officio board of canvassers........... 655
meeting to canvass returns.. 655
in case of absence, certain officers to act............ 856
if all returns are in, must canvass..... 857
if not all in, must postpone............ 857
when to send messenger.... . .. 857
compensation of 857
canvass must be public......... 858
informalities in........................ 858
board must declare person elected..... 860
See Under Elections.
meetings of board of regular and other 2840, 2845
additional regular, order and notice for 2840
special and order for 2840
public all must be.......... 2841
to canvass election returns............ 2846
members of board of, number......... 2835
qualifications......... 2836
vacancy among, and filling......... ... 2837
may administer oaths in official concerns 2839
must not be interested in any purchase or contract.... 2907
military roll, functions concerning..... 1353
money paid without authority of....... 2830
number of members of................. 2835
oaths, commissioners may administer in official matters....................... 2839
offices, may consolidate............ .. 2934
official bonds of, amount of........... 2838
of county and township officers, fixing the amount of...... 2942
precincts................ . ..715, 717, 2850
printing, contracts for................. 2853
powers of............................. 2850

COUNTIES—Continued.
general, permanent.................... 2850
to direct sheriff to attend meetings of.. 2852
contempt for, to punish for............ 2852
contract for printing and supplies..... 2853
bonds for county indebtedness, to issue.............................. 2860
to direct sale and exchange of such bonds..........................2860-2878
to levy assessment for bond fund thereof.............. 2867
redemption of 2866
description of.................. . 2864
claims against county..... ....2901, 2902
See 2895-2910
records to be kept. 2844
registration of electors,
must lay out registry districts.... 685
must appoint registry agents 686
term and qualifications............... 686
when appointed and number.......... 686
must fill vacancy 687
must provide necessary books seals and stationery 690
"official register," contents......... . 690
seal, must provide registry agents with 690
elections, concerning.......... ...2895 2896
Revenue, functions concerning see under revenue.... .... 2400, 2408
roads, functions concerning see under highways and roads.......: 1716, 1731
School bonds, issued, etc., ... 1275
school districts, functions concerning. 1061, 1063, 1064
school tax, functions concerning...... ... .1234, 1235, 1253
statement of county indebtedness, property, cash and rate of taxation by 2909
statement, joint, with clerk of money in treasury 3024
statistical statement by assessor, of agricultural and industrial condition of county, requirement and enforcement of 2192
taxation functions in, see revenue.2400-2408
term of office 2835
toll ferry, functions concerning....1860-1875
tolls, fixing licenses to take 1864
township, new, how organized 2851
treasurer, county, to report to... 2061, 2962
may suspend.... 2068
vacancy in board of, filling............ 2837
in county and township offices, filled by 2931
vacant, to declare office, when..... 3165
violation of duties by... 2910
warrants drawn by order of, for current expenses must specify what.... 2905
payment of in order of presentation or registration 2905
to order payment of advertised warrants 2866
witnesses,
to compel attendance and examination. 2897
to answer....................... 2898
contempt 2898
fees not prepaid 2899
questions of raising money,
borrowing money, limitation upon powers of commissioners............ 2885
electors to determine.... 2885
loan, question of making must be submitted to electors 2886
notice of election.... 2887
ballots, what to contain.............. 2888
when loan may be made. 2889
See under highways and roads,
enumeration of highways and roads 1700, 1704
powers and duties of highway officers 1715-1717
highway taxes..... 1725-1731
road supervisors...................1735-1750
opening and repairing roads.......1765-1770
drains and ditches.................1775-1776
purchase of implements..... . ..1781-1781
inspection of highways and work.1806-1808
apportionment of highway fund 1812
vacating, laying out, or changing highways..................... :.1818-1837
erection and maintaining of bridges... .., ...1850-1855

COUNTIES—Continued
ferries 1860-1
miscellaneous provisions 1883-18
see under boards of health 1900-19
cemeteries and sepulture.. 1930-19
see tax levy for stock inspection..1980, 19
see tax levy for stock indemnity fund.. 20
see tax levy for sheep indemnity fund. [illegible]
see poor 2140 2
poll tax poor fund........... ..... [illegible]
see fire warden fires and firemen..2155 21
see salaries and fees of officers.....3130-31
Assessor, See Separate Head.
Attorney, See Separate Head.
Board of Equalization See Under Revenue.
Bonds, See Indebtedness.
Boundaries, See Under Counties.
charges, presentation of accounts for . 3200
enumeration of 3201
costs of removal of criminal actions, are 3202
provision for such costs... 3203
Claims against.. ....2001 2903
must be itemized...... 2901
by county officers. 2900
of commissioners 2900
any resident citizen and taxpayer may oppose allowance of..... 2900
time and mode of presentation of...... 2901
timely filing of required..... 2902
rejection of, in whole or part 2902
action upon rejected. 2903
disallowed or rejected, appeal notice by clerk of board to county attorney 2904
Clerk See Separate Head.
Constables, See Separate Head.
Coroner, See Separate Head.
definition of...... 27
governments 28
indebtedness, funding and refunding.. 2860-28
See Under County Finances
justices of the peace, see separate head. 2917
judges, district............ 2917
Officers, mode of election of, where fixed.. 514
deputies of one another prohibition from being............. 522
not to present or advocate claims against county........ 2900
qualifications of............ 2920
enumeration of.... 2922
holding another office ex officio........ 2924
election and terms of 2925
deputies of.. 2928-2930
vacancies among, filling.... 2931
offices of at county seat keeping open 2932, 2933
oaths, administering and certifying.... 2935
absence from State restrictions on.... 2936
practicing law, etc. certain prohibited from....................... 2937
official bonds of.............2031, 2941, 2942
other provisions concerning 2943
reports of.................... 2944
fees and salaries of........ 3130
See Names of Various Officers.
Public Administrator, See Separate Head.
Recorder, See County Clerk.
Seat,
removal of, generally.............2807-2815
petition for......................... . 2807
signatures to petition 2808
ordering election for................ 2808
notice, conduct and returns of election. 2809
mode of voting.......................... 2810
returns and notice of result........... 2811
date when place chosen is county seat.. 2812
disposition of statement and copy of notice of result...................... 2813
restrictions on subsequent elections where no removals.............. 2814
elections for further removals, conditions of.... 2815
Seats, Locations of. See Under Counties.
School Superintendent See Under Schools, Public.
Sheriff, See Separate Head.
Surveyor, See Separate Head.
Treasurer, See Under Treasurer.
classification of.. 2938-313
COUNTY ATTORNEY,
assessor, derelict to prosecute....2453, 25

COUNTY ATTORNEY—Continued.
auctioneers, to prosecute.... 2290
bond of.... 2941
claims against county, except for his own services, not to advocate or present.... 3064
commissioners is legal adviser of .. 3062
functions as such.... 3062
consent of, required to supply defect in assessment book.... 2685
county seat, office at 2932
deputies allowed 3138
duties.... 3061
fees and salaries, see under that separate head 3130-3163
generally.... 3061
issue subpoenas and compel attendance of witnesses 3156
official money withheld by, action to recover.... 2963
public prosecutor, is.... 3061
prosecute officers for failing to post fees 3151
roads, prosecutions of complaint of road supervisors.... 1801
salary, see salaries and fees.......3130-3163
settlement of, annual.... 2691

COUNTY CLERK,
ballots, must provide, for elections. 786
number of.... ....790, 793
instructions to judges of election, must cause to be printed, nominations, to publish in newspaper 773
nomination, certificate of, must be preserved one year 770
pasters must print in case of vacancy. 788
questions to be submitted, must print on ballot 789
ballots must deliver to judges of election.... 791
also rubber stamp containing words "official ballot," etc..... 791
election returns, etc., to be delivered to. 836
duties as to.... 837
in case of contest.... 838
to produce before commissioners for canvassing returns, returning of..... 840
marks and brands, to keep record of.. 1950
duties as to collection of taxes and functions under revenue.... ....25-302033, 2400-2699
bond of.... 2941
when filed.... 611
and recorded.... 576
books of treasurer, to examine....2971, 3023
what to take charge of 3021
duties generally 3021-3027
certificate of, required for amounts payable into treasury 2195
counting of money in county treasury and statements concerning.......2971 324
filing and posting statement.... 3025
deputies allowed.... 3137
duties of 3007-3027
as to notary public....491, 493, 497
elections, must cause instructions to be printed and forwarded.... 743
ex officio recorder....3007, 3009
fees of.... 3171
to be paid monthly.... 3142
must be paid in advance.... 3147
must receive no other.... 3152
financial statement.... 2910
lands, State, services concerning.... 2345
licenses, functions concerning.... 2720-2722, 2727
medical certificate, must be recorded by, and fee 400
office hours of.... 2933
official bonds of certain officers to be filed with.... 582
receipts for money paid into the treasury.... 2951
residence at county seat required.... 2932
revenue, functions concerning, see under revenue.... 2530-2633
settlements of treasurer with.... 2960
statement to commissioners jointly with treasurer.... 3026
must file showing amount 3024
when filed.... 3025
contents of.... 2910

COUNTY CLERK—Continued.
treasury, must count money in jointly with chairman of board of commissioners....
warrants, for what purposes drawn by 2905, 3021
must specify what.... 2905
numbering, indorsing and registering 2869, 3022
weights and measures, ex officio sealer of....331-336
abstract of incumbrances, to transmit to assessor.... 2491
births, marriages and deaths, record of filed with 1912
registers of, kept by 1914
certified abstracts of such registers, transmitted by.... 1912
bond of, amount of.... 2941
book for records, obtaining.... 3007
certificate of purchase of State lands, to record and report sales of. 2345
certificates of sales for taxes, filing with 2581
county clerk to file same.... 2583
book of.... 3059
county seat, office and residence at 2932
custody of records and papers by.... 3007
duties of....3009-3017, 3020
liability for violation of 3018
fees must be paid or tendered in advance 3019
generally 3007
highway, conveyance or condemnation of right of way, for recording with.. 1833
indexes to be kept by 3009, 3010
to book of certificates of sale.... 3009
mode of keeping.... 3014
indorsements upon instruments, etc., of time of reception for record.... 3015
of time of recording and volume where recorded 3016
inspection of records, provision for.... 3020
itemized receipt for fees.... 3150
keep fees posted in office.... 3151
judgment or decrees partitioning or affecting real property in county, to file and record certified copies of.... 3011
marks and brands, record of with 1950
map book.... 3013
partition, decrees of, filing and recording certified copies of.... 3011
notice imputed thereby.... 3012
Real Property. See Judgments.
recorded, what to be 3008
redemption of land sold for taxes duty on 2588
requesting record, noting name of person 3015
return of papers recorded.... 3010
salary.... 3133
salary and fees to be collected for county, see salaries and fees of officers 3130-3196
searches and certificates of search.... 3017
tax sale, notice of filing affidavit of publication of, with.... 2573
time of reception of instruments, etc., for record, indorsing.... 3015
noting at foot of record 3015
writings to be recorded.... 3008
duties as to elections and registration
must make full minutes of all proceedings of board under registration law 705
must publish names of registry agents 705
must furnish copy of official register and check list.... 708
notice to judges of election, must make out and forward.... 734
notice of election, must forward to judges and form of.... 736
poll books must forward to judges.... 757
time of.... 757
form of 758
is clerk of board of county commissioners.... 856
clerk of board of canvassers must make record 859
must deliver to persons elected certificate of election.... 861
duties as to electors of district.... 862-864

COUNTY CLERK—Continued
how to make State returns............ 865
must seal up abstract and transmit to Secretary of State.................. 866
militia, must transmit roll of to Governor.............................. 1355
duties as to roads
must keep record of proceedings as to roads........ 1704
certificate of settlement with supervisor 1745
must deliver blanks to supervisor...... 1743
duties as to revenue,
assessment book delivered to and notice thereof............ 2446
correction of assessments, must notify persons interested....... ... 2494
record of corrections, must keep....... 2495
general powers and duties.... 2843
records and books, to be kept by 2844
claims disallowed, appeal notice of to county attorney 2904
report in tabular form information contained in officers' reports to State Auditor.... 2916
COUNTY FINANCES, BONDS AND WARRANTS
board of commissioners may issue bonds 2860
what to contain 2861
sale of and notice. 2862
proceeds of..... 2863
redeemed bonds to be cancelled........ 2864
printing of 2865
redemption of, notice to be published.. 2866
fund to be provided 2867
county treasurer to pay interest........ 2868
record of to be kept.... 2869
interest on after presentation.......... 2870
lost bond or warrant 2871
indemnity....... 2872
duplicate 2873
notice imparted what...... 2874
lost bond, duty of county treasurer.... 2875
transfer of fund 2876
fund, contingent 2877
surplus of contingent. 2878
COUNTY COMMISSIONERS
see under counties.. 2835
COUNTY SEAT,
removal of....................... 2807-2815
See Under Counties.
COUNTY BOARD OF EQUALIZATION,
see revenue..... 2486
COUNTY SUPERINTENDENT OF COMMON SCHOOLS.
duties 1040, 3116
salary of.. 3133
penalty for not reporting.. 1041
must maintain school.................. 1042
repairing buildings................... 1043
reports when and how made.......... 1044
boundaries of school districts 1045
duties as to school lands............. 2350
school land, condition.............. 2350
COUNTY SURVEYOR
bond of 2941
county boundaries, functions in setting...... 2801
disinterested person, when to act as... 3075
duties of................. 3070, 3071
fees of 3175
surveys of land in two counties.... .. 3071
order for survey................ . 3072
courses and variations, to be noted.... 3073
to employ assistants, when 3074
survey upon order of court.......... 3070
COUNTY TREASURER,
bond of..... 2941
books, accounts, etc., examination of, authorized.....................2970, 2971
coroner or justice of the peace acting as, action by county treasurer against, to recover undelivered moneys found on dead body......... 2964
disposition of money or property received from....... 2965
condition of repayment of moneys of decedents 2966
county seat, office and residence at..... 2932
death of, delivery of effects on......... 2969
deputies allowed... 3138

COUNTY TREASURER—Continued.
disbursements of county moneys to make only on proper warrants ..... [illegible]
district attorney action by county treasurer against, to recover moneys withheld .... [illegible]
disposition of funds by, restrictions on [illegible]
duties of .... [illegible]
duties as collector of taxes . .... [illegible]
duplicate receipts to officers .... [illegible]
fees to collect .... [illegible]
lands, State, functions concerning. 2320-[illegible]
loan of public moneys to another prohibited ... . [illegible]
money in treasury, to permit counting of................. . . .. [illegible]
percentage, none on money received from predecessor or his legal representative .... [illegible]
poll tax receipts ... . [illegible]
signing numbering, delivering etc.... [illegible]
duties as to collecting .... [illegible]
possession, must keep public moneys in his own.................... ... . [illegible]
receipt for money paid to...... ...... [illegible]
register of warrant in name of payee .. [illegible]
exception .. . . [illegible]
refunding by, of taxes, illegally collected. .... [illegible]
report of to commissioners, at every regular meeting of board ... . [illegible]
penalty for failure. .... [illegible]
settlement of revenue transactions annually with county clerk .... [illegible]
of accounts with county clerk monthly and annually............... .... [illegible]
penalty for failure... .... [illegible]
see further settlements and payments under revenue .... [illegible]
suspension of pending action for misconduct against . ... [illegible]
use of public moneys, unauthorized, or permitting same prohibited. ...... [illegible]
warrants payment of....... 2905, [illegible]
not paid for want of funds..... .. .. [illegible]
such warrants interest bearing ...... [illegible]
notice of redemption of same to stop interest .... [illegible]
contents of such advertisement .. . [illegible]
preference in payment of, according to priority of registration....... . [illegible]
re-presentation of, action on when made too late or in time .... [illegible]
note and account of interest paid on ... [illegible]
assessment book duplicate, delivery to [illegible]
charge thereupon. .. .. [illegible]
charge and credit on transfer of .... [illegible]
to compare with original......... [illegible]
certificate of sale of lands for taxes, by .... .2580-[illegible]
county seat, office and residence at [illegible]
delinquent list, to furnish..... ...2563, 2564
county clerk's examination of. 2565
return to 2566
to publish. 2568
notice attached.................. ... 2569
office of, as place of sale........ 2571
affidavit of publication.......... .. 2573
comparison of, with unpaid assessments 2603
oath of, written in.................... 2604
charge of amount due on............ 2605
delinquent taxes, to collect additional percentage on....... 2561
also fifty cents extra, per lot, etc...... 2574
double taxes, not to collect.... 2609
licenses functions concerning......... ....2721, 2725 2727, 2728
personal property taxes, when not a lien on realty, collection of by...2596-2598
charge therefor.................. , 2600
suit for, against party removing from county....................... 2612-2614
property taxes, functions in collection of, publication by, of notice to pay.. 2555
to note payment of 2557
to give receipt for............ 2558
sale of land for delinquent taxes by... .... 2575, 2576-2579
when not made......................... 2610
salary................................ 3171
and fees to be collected, see salaries and fees of officers.............. 3130-3196

COUNTY TREASURER—Continued.
school moneys, no compensation for handling 1263
school bonds, must redeem 1270
school bonds, must pay interest 1277
settlement and payments by ... 2560, 2565, 2596
tax deed by 2592–2594
tax, road must collect 1726
liable on bond for 1731
poll tax must collect 1758
taxes, charging with 2536, 2539
unpaid taxes, affidavit of concerning 2006
COURT.
seal of, defined 13
See Courts, Supreme, See That Head.
COURTS,
clerks of, See Under Clerk, District Court.
Clerk of Supreme Court
Inquiry, of See Under Militia.
Martial, See Under Militia
police, jurisdiction of 346–63469
who to prosecute in 3472
proceedings 3470, 3471
in preliminary examinations 3468
CREDIT,
mortgage credit, how assessed 2417
CRIME
repeal of acts creating, when not bar to prosecution of 181
right of State, serve process for, reserved 29
to punish for 31
CRUELTY TO ANIMALS,
See Under Animals.
DAMAGES
mobs or riots by, liability of municipal corporations for 3536, 3567
for change of grade in cities or towns 3480–3485
roads, on opening or altering 1826, 1827
sheriff's liability for 2987–2992
DAMS AND RESERVOIRS 2295–2308
how constructed 2295
in substantial manner 2296
complaint 2297
persons appointed to examine dam and reservoir 2297
examination and report 2298
report, what to contain 2299
dam, insecure proceedings 2300
issue and trial 2301
judgment 2302
new trial and appeal 2303
water may be drawn off 2304
board of county commissioners may appoint experts to examine dam 2305
experts, compensation of 2306
duty of board when complaint filed 2307
penalties 2308
DAY,
exclusion of first 11
First, See Exclusion.
holiday 10
last, when included in computation of time 11
Sunday, See That Title.
See Definitions.
DEAF, DUMB AND BLIND ASYLUM.
established 1621
board of commissioners 1622
board must contract for care and maintenance 1623
education time extended 1624
expenses paid out of State treasury 1625
feeble-minded children and imbeciles included 1627
reports of board 1626
Governor president of board 1622
Secretary of State, secretary 1622
DECLARATION,
oath as used in this Code includes 16
DEFINITIONS
acre 2089
allegiance 46
ballot 789
boundaries, words used in describing 2773–2776
bushel 2099
cemetery 1921
chain 2088
citizen 41
DEFINITIONS—Continued.
city 3300
Code, words and terms used in 16
credits 2407
day 2104
day-time 2105
debts 2407
depose 16
descriptive words for boundaries 2773–2776
elisor 3000
estate, real 2407
full cash value 2407
gallon 2002
hogshead 2093
holiday 10
improvements 2407
law 3754
leap year 2104
magistrate 16
mile 2088
month 16
night-time 2108
notice 2980
oath 16
officer peace 16
ounce 2901
peace officer 16
perch 2088
person 16
pole 2088
pound 2091
process 16, 2980
property 16, 2407
property, personal 16, 2407
property, real 16
real estate see estate 2407
real property 16, 2407
rod 2088
Revenue, See Taxation.
seal 13
signature 16
State 16
swear 16
ton 2099
Taxation, See Revenue.
testify 16
Tickets, See Ballots and Voting, Under Elections.
time, terms expressing 2103–2108
territories 16
trade mark 2115
United States 16
vessel 16
week 2106
will 16
words used in this Code 16
words used in describing boundaries 2773–2776
writ 16
writing 16
yard 2087
year 2105
DELINQUENT.
Purchasers of State Lands, SeeUnder Lands, State Taxes, See Taxes Under Revenue.
DEATH REGISTRY,
see births, marriages and deaths .. 1909-1914
DEPOSITIONS,
in contested elections of members of legislative assembly 139
DEPOSE,
meaning of word in code 16
DETECTIVES,
See Stock Inspectors.
DEPUTIES,
of officer not to be appointed notary 499
power of 530
how appointed 533
number of 534
oath of 555
bond of 610
prohibited from dealing in warrants, etc. 561
of county officers 3136
how allowed 3146
compensation 3135
number allowed 3137, 3138
affidavit of 3146
board of commissioners to allow when 3136
DISINCORPORATION OF CITIES AND TOWNS,
proceedings 3505, 3506

DISTRICTS,
senatorial........................... 57
representative. 59
congressional 62
judicial 66
school 1060-1066
registration.......................... 685
Sewer,
See Under Cities and Towns.
DOORKEEPER,
duties 100, 101
compensation................. 122
See Legislative Assembly.
DRAFT,
See Militia.
DRILL,
See Under National Guard.
DUPLICATE,
Assessment Book
See That Head Under Revenue.
EDUCATION.
see State Board of Education.......930-937
University of Montana. 940-942
School of Mines............ ....970. 971
Agricultural College of Montana...990, 991
State Normal School..............1010, 1011
schools, public......................1030-1324
compulsory.........................1154-1156
EDUCATIONAL OFFICES,
women eligible to..................... 1072
educational rights 1154-1156
ELECTOR,
eligible to office........................ 49
duties and rights of 50
ELECTION,
incorporated city or town.............. 3321
to annex territory 3337
annual, how conducted....... 3317-3350
city or town officers for first time.3322, 3323
Contesting
see contesting elections....145, 146, 130-140
County and Township Officers,
of............. 2925
County Seat,
for removal of.. 2807-2815
see under counties 2807-2815
Holiday,
day of general, is...................... 10
Legislative Assembly,
of members and officers of, see Legislative Assembly 87, 88, 89
Militia,
officers in actual service of........... 1506
national guard, of field officers of. ... 1469
Officers,
of certain state......................... 200
of various, see under their names.
School Trustees,
for............. 1072-1081
See Under Schools, Public
School Tax,
to levy........... 1234-1275
See Schools, Public.
writ of to fill vacancy.............. ... 626
see elections..........................650-680
location of seat of government, for....70-74
Actions—Arising out of registration,
see under registration 635-708
Ballots,
official and stamp...................... 795
county seat, at election for removal.2807-2815
all elections must be by.............. 670
deposit of proceedings before 795, 796
disclosure of contents of requesting within certain limits prohibited...792, 793
Ballot Box,
county commissioners must provide... 740
opening in box......................... 741
to be exhibited......... 742
Ballots and Voting,
ballots, how printed and distributed... 785
expense a county charge... 785-749
to be printed by county clerk.......... 786
to be filed by county clerk............ 837
how printed and what to contain...... 789
destruction of...................... ... 827
number for each precinct............... 790
preservation of. 830
clerk to deliver, to judges..... 791
poll lists and, must agree............... 830
spoiled..... 798
rejected not counted.................. 829

ELECTION—Continued.
rejected must be marked....... 831
putting in box................ 803
counting the unopened................ 826
cast without interference.... 793
strung on string must be..... .. 830
folded separately, how dealt with..... 826
crossing of 796
write or paste name on........ .. 786
questions, how printed on 789
description of....... 789
agreement of number with name, how secured 827
official stamp. 795
delivery of, to each elector..... 795
to be destroyed, if challenge determined against person 873
booth or compartment only one person to occupy....................... .792, 797
county clerk to provide ballots........ 786
to deliver to judges......... 791
keep list of voters.... 805
keep list of persons challenged 814
papers to be sent to judges 833
publish nominations... 773
opening returns, duties of...... ... 864
returns, certified abstract of state by... 865
statement of same 867
transmission of same........... . 866
messenger to furnish with certified copies of returns...... 868
tally sheet, must make......... 829
poll books, to set down names i 829
forward same to judges........ . 832
ballots, to file... 837
ballots, to preserve........... . 837
ballots, destroy, when.... 837
ballots, disposition of in case of contest 838
Clerk
municipal, to aid in municipal elections 757
Check List.................... .. ...804, 790
Election of school officers excepted 787
Elector.
to cast ballot without interference 793
to mark ballot by crossing 796
who cannot read or write 799
must write or paste name on ballot.... 786
delivery of ballot to........... 795
Expense of Printing Ballot
a county charge... .. ..785, 794
Judges Appointed,
to deliver to elector official ballot 795
sealed package of returns must deliver to county clerk.. 836
to assist elector who cannot read 799
check list, must deliver to county clerk 733
to receive ballot and announce voter's name 802
must place ballot in box....... .. . 803
must write word 'voted" opposite name on check list................. 804
keep list of challenges....................... 814
string ballots............................ 830
booths, must provide.................... 792
county clerk must send certain papers to...................................... 833
one must be appointed to keep certain papers open to inspection............ 834
List of voters.............................. 805
Poll list............................. .. 805
Official Stamp,
what to contain......................... 791
Question Submitted,
how printed on ballot and how voted 789, 796
Stamp,
official................................ 791
Voting,
when to commence and continue...... 800
manner of............................796-801
Voters,
name, announcement of............... 802
record of how kept.................... 804
list of................. 805
must hand his ballot to judges and announce his name....................... 801
challenge of..........................807-814
may write or paste name on ballot. ... 786
Blanks,
supply of printed, to be furnished by county commissioners............730-743

ELECTION—Continued.
Candidates and Questions for Election,
  convention or primary meeting may nominate.... 765
  convention or primary meeting meaning of.... 765
  certificates, of nomination what to contain.... 766
  where filed.... 767
  otherwise nominated.... 768
  not to contain certain things.... 769
  one person for each office.... 769
  must be preserved one year.... 770
  vacancies filled by further.... 776
  filed when.... 770
  candidate may decline, when.... 774
  when in municipal elections.... 774
  decline, candidate may.... 774
  errors how corrected.... 777
  nominations to be published.... 773
  questions to be submitted to electors how certified.... 776
  vacancies how filled.... 776
City or Town Elections,
  who entitled to vote.... 3348
  registration in.... 3347
Canvass, of Returns,
  825-840
  county commissioners ex officio canvassers.... 855
  when to meet.... 855
  absence of commissioner.... 856
  canvass to be postponed, when.... 857
  canvass must be public.... 858
  in cities.... 3350
  canvass, when to be made.... 855
  when may be postponed.... 857
  must be public.... 858
  of returns and declaration of result..855-874
  certificate of election.... 861
  county seat, of election for removal.... 2807-2815
  commissions, issuance of.... 869
  defects or informalities in returns.... 873
  district returns, from several counties; certified abstract of statement of result.... 862-866
  opening and duties of clerk thereon.... 864
  Elected, who declared.... 860
  governor must issue commission.... 869
  when he succeeds himself.... 869
  appoints judges in case of tie vote.... 871
  orders special election, when.... 872
  highest number of votes, person having declared elected.... 860
  irregularities, if not substantial certificate must issue.... 873
  meetings for.... 855
  mode of making.... 826
  postponement of.... 857
  proceeding with.... 857
  public must be.... 858
  receipt canvass of returns delayed until complete.... 857
  record of result.... 859
  result declaring.... 859
  statement of.... 864
  entering statement on record.... 859
  certified abstract of such statement where district returns.... 862
  sealing, indorsement and transmission of such abstract.... 863
  returns, receipt of canvass delayed until complete.... 857
  opening and estimating the vote.... 858
  state returns, certified abstract by county clerks.... 865
  transmission of same.... 866
  statement of same.... 867
  issuance of commission thereupon.... 869
  canvass of vote by state board.... 867
  state board when to meet.... 867
  when messenger to be sent.... 868
  clerk must furnish messenger with certified copy of returns.... 868
Canvass of Votes,
  agreement of number of ballots with number of names on check list, how secured.... 827
  ballots, defective not counted.... 828
  rejected not counted.... 829

ELECTION—Continued.
  rejected how marked.... 831
  must be strung on string by judges 830
  clerk must make tally sheet.... 829
  commencement of.... 825
  continued, to be.... 825
  counting the unopened ballots.... 826
  counting the votes.... 829
  excess of ballots, destruction of.... 827
  record of same.... 827
  folded ballots, separate, how dealt with.... 826
  list of voters, signature, attestation and footing.... 832
  in cities.... 3350
  papers sealed up and directed to county clerk.... 833
  preservation of ballots.... 830
  public, to be.... 825
  poll lists and ballots must agree.... 829
  poll books to set down names in.... 829
  returns and ballots, see sealed packages.... 830, 833-836
  sealed packages containing returns delivered to one of the judges.... 835
  judge must deliver same to clerk.... 836
  county clerk receiving to file ballots.... 837
  to keep them unopened and unaltered for twelve months.... 837
  to burn at end of that time if no contest 837
  if contest, disposition of.... 838
  other packages to be produced before commissioners canvassing returns.... 839
  disposition of.... 840
Canvass of Votes in Cities,
  3350
Challenge,
  conviction of felony proof on challenge for.... 809, 810
  determination of.... 695, 699, 700
  determination of if against person ballot to be destroyed.... 873
  frequent voting.... 808
  grounds of.... 806
  identity, for want of; oath tendered on. 807
  determined by taking.... 807
  list of to be kept by judges.... 814
  list concerning kept by clerk....699 700
  non-residence in state for year, question on.... 695
  in county or precinct for time prescribed questions on, for.... 695
  name must appear on "check list".... 815
  previous voting, for: oath tendered on, 808
  determined by taking.... 808
  refusal of persons challenged, to be sworn and answer questions, etc., bars vote.... 812
  school trustees, at election for.... 1079
  trial of challenges.... 811
Check Lists,
  registry agent must make.... 700
  delivered to judges.... 701
  judges must send to county clerk.... 733
  name must appear on to be entitled to vote.... 815
Cities, Elections in,
  3350
Clerks of Election,
  appointment of.... 735
  term of.... 735
  compensation of.... 3105
  expense for blanks.... 664
  oath of office.... 738
  oaths, may administer and certify.... 739
  tallies of votes.... 805
Convention,
  for making nominations....765. 766
Commissions
  issuance of.... 869
Electors,
  age of twenty-one years requisite for.. 671
  arrest, when privileged from.... 673
  citizens who shall be.... 671
  eligibility to office.... 49
  idiot disqualified.... 675
  insane person disqualified.... 675
  conviction of crime disqualifies unless pardoned.... 671
  militia duty, when exempt from.... 674

ELECTION—Continued.
  notaries must be.................. 487
  precincts, ...
    See That Head.
  privileged from arrest 673
  presidential,.........................
    See That Head.
  qualification and disabilities of 671
  qualified, who are...................... 671
    to vote for school trustees... 1077
    to vote at city elections...... 3348
  registration of,.......................
    See Registration.
  residence for voting purposes......... 672
  rights and duties of................... 50
  women are at school elections........ 676
Election Special,
  for loan...........................2885-2889
General,
  time of holding.................... 650
Governor,
  must issue commissions.............. 869
  secretary of state must issue commission to, when..................... 869
  appoints judges in case of tie vote..... 871
  orders special election on tie vote for congressman................... 872
  proclamations by.................... 653
    contents of............ 654
    publication or posting of 655
General Provisions,
  concerning.......................660-664
Judges of Election,
  appointment of.................... 730-743
  when appointed.................... 730
  one appointed to keep certain papers open to inspection.................. 834
  ballot box, opening and closing of..... 742
  booths must provide.................. 792
  canvass votes, must.................825-840
  check list must deliver to county clerk. 733
  clerks appointed by................... 735
  to notify judges of their appointment.. 734
  challenges must keep list of.......... 814
  compensation of 663, 3195
  county clerks must send certain papers to........................ 833
  county commissioners to furnish blanks for poll lists, tickets, etc. 664
  number of 731
  when five and when three............ 730
  five may be appointed notwithstanding registration........................ 731
  notice of election, form of 736
  electors may elect, when............. 731
  to assist when elector cannot read 799
  oath of and of clerks................ 738
  oaths may administer or clerks......... 739
  primary elections................765, 766
  proclamation at opening and closing polls..............................750, 752
  political party, not more than a majority of one......................... 733
  posting copies of instructions at polls. 743
  notice of elections.................. 737
  card of instructions in booth.......... 743
  polls, posting copies of instructions at. 743
  proclamation of opening and closing.. 750-752
  precincts, see that head.................
  new................................ 732
  official ballots, one appointed to deliver to elector 795
  sealed packages of returns must deliver to county clerk.................. 836
  receive ballot and announce voter's name 802
  place ballot in box 803
  string ballots must.................. 830
  "voted," must write opposite name on check list......................... 804
  school, of election to levy..... 1245-1249
  school trustees, of election for, appointment of judges 1075
Member of Congress,
  representative, when election held for. 910
  returns, abstract of.................. 911
  transmission of same.................. 911
  result, determination and certifying of. 911
  certificate of election of............ 912
  senators for full terms, when held for.. 900
  to fill vacancies, when held........... 901

ELECTION—Continued.
Nominating Candidates...............765, 766
  certificates, what to contain......... 766
  where filed ....767, [illegible]
Notice of Elections,
  clerks to mail to judges............ 736
  form of............................ 736
  judges must post 737
Miscellaneous Provisions...........660-664
Precincts.......................715-[illegible]
Plurality Elects 660
Poll Lists,
  clerk must keep list of persons voting and enter name on............... [illegible]
  forms part of poll book.............. [illegible]
Polls
  ballot box, exhibition and retention of ....740, [illegible]
  closing proclamation of.............. [illegible]
  no ballots received thereafter .... [illegible]
  opening, place of................... [illegible]
  proclamation of .... [illegible]
  opening and closing.................750-[illegible]
  time of............................. [illegible]
  posting copies of instructions at..... [illegible]
  poll books...........................
    See That Head.
Poll Books,
  county commissioners to furnish...... [illegible]
  clerk to forward to judges........... [illegible]
  duties as to........................ [illegible]
  form of............................. [illegible]
  form want of does not vitiate .... [illegible]
  signed and certified how............ [illegible]
  one sent to county clerk .... [illegible]
Precincts.
  boundaries of defining ....715, [illegible]
  consolidation of established, authorized [illegible]
  establishment of.................... [illegible]
  where established .... [illegible]
  distance from registry office .... [illegible]
  none, in Indian country.............. [illegible]
  new................................ [illegible]
  house or place within, for holding elections, designation of.........719, 720
  judges may designate................ 720
  new, county commissioners may create [illegible]
  number of votes for each............ [illegible]
  number of, convenient, county commissioners to establish.............. [illegible]
  offices to be filled, designation of..... [illegible]
  county commissioners to establish..715, [illegible]
  alteration of....................... [illegible]
  limitation of powers given........... [illegible]
Presidential Electors,
  abstract of returns .... [illegible]
  assemblage of .... [illegible]
  certificate of election, governor to transmit .... [illegible]
  chosen, when .... [illegible]
  compensation, amount .... [illegible]
  auditing and payment .... [illegible]
  electoral vote, casting .... [illegible]
  distinct ballots for president and vice President .... [illegible]
  governor to perform certain duties concerning .... [illegible]
  list of electors, governor to deliver .. [illegible]
  lists, distinct, of persons voted for as president and vice president.. 886, [illegible]
  transmission of same................. [illegible]
  returns, statement and abstract of .... [illegible]
  transmission of abstract............. [illegible]
  vacancies, supplying................ [illegible]
Proclamations,
  board of county commissioners, by.... [illegible]
  publication or posting of governor's, by [illegible]
  governor, by....................... [illegible]
  contents of........................ [illegible]
  publication or posting of............ [illegible]
Penalties .... [illegible]
Registration,
  districts to be established by county commissioners .... [illegible]
  agent for each district .... [illegible]
  vacancies, how filled................ [illegible]
  failure of agent to qualify........... [illegible]
  oath of applicant, when no agent in district .... [illegible]
  books and supplies, how furnished.... [illegible]
  time of registration................. [illegible]
  duties of agent...................... [illegible]

ELECTION—Continued.
registration, notice of to be published. 693
oath of elector 694
book to be open to public inspection... 694
elector questions to be asked.......... 695
registration good for two years........ 695
residence, rules for determining....... 696
naturalized citizens, how registered. . 697
list of electors registered to be posted. 698
notices and challenges, etc............ 699
agent to make copy of official register and check lists 700
official register, check book and other papers to be delivered to judges..... 701
elector, transfer of 702
oath of registry agents.............. 703
compensation of.... 704
appointment of to be published........ 705
municipal elections not affected by.... 706
special elections............ 707
clerk to furnish copy of official register 708
judges to return to county clerk certificates of registration sealed in envelope 833
registration in cities and towns........ 3347
Registry Agents,
See Registration.
Registry Districts
See Registration.
Residence,
challenge for non-residence in state... 695
for non-residence in county or precinct 695
determination of.................... 696
oath concerning, rules read before administering.......... 695
rules for determination of, for election purposes 696
term of, how computed for election purposes 695
Secretary of State,
to issue commission to Governor when 869
to publish pamphlet of election laws and transmit to clerk............ 874
Senators in Congress,
election for full terms when held...... 900
to fill vacancies.............. 901
School Election,
tax... 1245-1249
trustees election for........ 1075
Special,
held when............ 872
tie vote, to decide....... 872
Tally Sheet,
to be sent to county clerk..... 833
Ticket,
see ballots and voting....... 785-815
Tie Vote,
proceedings on.... ....661, 870, 871, 872
See Constitution, Art. VII—Sec. 2.
Time of Holding,
designated by whom special must be 651, 872
general 650
special 651
Voting,
commencement of..................... 800
continuance of 800
counting of 825-840
list of persons..... 805
name of person, announcement of. 801, 804
entered on list. 805
number, announcement of by voter and judges......... 802
of person voting, entered on list 805
manner of............... 800-805
record of........................... 804
register, precinct, announcement of voting, number on, name of voter must appear on..................... 815
residence, also given and announced, in incorporated cities and towns..... 802
"voted," when written on register.... 802
ELISOR,
.... 3000
EMINENT DOMAIN,
compensation on...... 36
generally 36
recording decree on condemnation of land, etc., for road purposes......... 1833
right of, State may exercise........... 36
exercise of for road purposes.......... 1818
ferry............................... 1774
EMINENT DOMAIN -Continued.
by city or town.. ....3390, sub. 75
how paid for......... 3453
EMPLOYER AND EMPLOYE.
see arbitration....................2219-2226
blacklisting......... ....2263, 2262-2264
see poll tax under revenue 2638-2662
protection of discharged employe...... 2262
blacklisting prohibited............... 2263
employe to be furnished reason of discharge 2264
ENACTING,
of statutes.... 165-170
ENGROSSING CLERKS,
see clerks under legislative assembly.. .. ..100, 101, 114, 115
how paid.. 115
compensation 122
ENROLLED MILITIA,
see militia...... 1350-1355
ENROLLING CLERKS,
see clerks under legislative assembly.. ....100, 101, 114, 115
how paid............................ 115
compensation...... 122
EQUALIZATION, BOARDS OF,
See Under Revenue.
ERRORS,
in assessment book, etc., correcting... ....2685 2686
ESCHEAT.
.... 34
ESCHEATED ESTATES,
.... 34
ESTATES OF DECEASED PERSONS,
See Public Administrator
EXAMINERS, STATE BOARD OF
who compose................. 208, 410
books accounts. etc., of auditor and treasurer, examination, etc , of by... 436
must certify fact of default of treasurer to Governor 280
must procure expert certificate of board 281
claims not to be passed upon by legislative assembly until considered by board........ 410
claims, entry of on minutes 412
for which appropriation has been made, presentation of 416
action upon 410, 417, 418
for which no appropriation made or left, action upon..................... 419
for which no other legal provision, presentation of........... 420
session to consider..................... 421
previous publication of list of claims.. 421
action on................. 422
report and recommendations concerning.. 423
disqualifications from acting on....... 424
second consideration of claim, restrictions on....... 426
appeal from decision of board........ 427
approval of claim by board prerequisite to State Auditor's drawing of warrant for......................... 428
preventing or stopping State Auditor's unlawful drawing of warrant for. .. 429
State Auditor transmitting certain approved claims to........ 417
drawing of warrants by State Auditor for such claims... 417
prohibition of drawing of warrants for claims not so approved 418
stopping or preventing improper drawing of warrants for 429
investigation of accounts of State Auditor and State Treasurer, by........ 430
permitting examination of books and papers by............. 431
depositions, powers of members to take 415
dissent of member to allowance of claim 412
meetings of, when and where held.... 411
members composing.................. 410
military claims, action of............. 1470
money in State treasury, to count...... 430
mode of counting.................... 430
publication of result of count......... 431
president and secretary of board...... 411
powers of board...................... 410

EXAMINERS, STATE BOARD OF—Continued
- see national guard 1414
- record of proceedings 412
- rules and regulations, power to establish 413
- witnesses before testimony and expense of 414
- duties as a board of supplies and furnishing board 433-414

EXAMINERS,
- medical board of ....
  See Medical Examiners, Board of.

EXAMINER—State,
- see State examiner 320-323

EXAMINATION AND COMMITTAL OF INSANE PERSONS,
- examination before whom 1590
- cost of 1601
- two witnesses 1591
- two physicians 1592
- witnesses duty of 1593
- physicians duty of 1594
- certificate of physicians 1595
- certificate to be made on forms, etc 1596
- judge action of, commitment 1597
- insane person, delivery at asylum 1598
- insane person, money found on person 1599
- physicians, fees of 1600
- cost of examination and commitment 1601

EXCLUSION,
- days in computation of time 11

EXECUTOR
  See Administrator.

EXECUTIVE OFFICERS,
- 102 112

EXEMPT FIREMEN,
  See Fires and Firemen.

FEES AND SALARIES
- see salaries and fees of officers 3130 3166

FEMININE GENDER,
- included in masculine, in words used in this Code 17

FENCES,
- legal fence defined 2166
- penalty for violation 2167
- barbed wire fences to be kept in repair. 2168
- partition fences 2169
- to be maintained at joint expense 2170
- fence, when joint occupancy ceases 2171
- when partition fence removed 2172
- repairs of partition fences 2173
- liability of owners of stock for trespass 2174
- stock trespassing may be retained 2175

FERRIES,

Toll,
- adjacent owners of land preferred in procuring authority for 1873
- application for authority to maintain 1860-1862
- previous notice essential 1861
- notice of application 1862
- publication of notice 1861
- hearing of 1862
- granting 1862
- authority over erection and maintenance of, who possesses 1860
- duties of commissioners granting 1864
- banks of adjacent streams or waters, keeping in repair 1876
- bond required before license issued, fixing amount of 1869
- requisites of 1869
- condemnation of lands for 1874
- connecting two counties, application for authority to construct 1860
- license tax and license 1870
- interested commissioners no. to act 1871
- license, issuance of 1870
- for ferry connecting two counties 1870
- fixed by commissioners 1864
- license tax for ferry connecting two counties 1870
- one mile of established ferry, within, when new ferry not to be established 1872
- penalties recovered hereunder, disposition of 1868
- preference in procuring authority 1873
- passengers and trips 1867
- rates of toll ....
  See License Tax.
- posting 1875

FERRIES—Continued.
- report of owner or keeper 1865
- rules and regulations for government of, prescribed by commissioners 1866
- tolls, see rates of toll 1873
- toll roads and bridges prohibited 1873

FINANCES,
- see county finances, bonds and warrants 2860, 2875

FIRE WARDEN, FIRES AND FIREMEN,
- for unincorporated towns and villages. 2155
- appointment of by board of commissioners 2155
- chimneys, dangerous 2159
- companies in unincorporated towns 2157
- must elect officers 2158
- exemption 2158
- certificates 2158
- certificate of exemption 2158
- chief of fire department duties 2161
- compensation 2161
- clerk of county may issue exempt certificates 2159
- companies, fire, in incorporated cities, towns and villages, organization of 2157
- limit on number of, and of members 2157
- foreman of 2159
- secretary and treasurer of 2158
- by-laws and regulations of 2159
- penalties imposed by 2159
- duty of secretary of 2160
- evidence, certificates of exemption as 2160
- "exempt certificates" 2159
- exempt fireman, privileges and exemptions of 2158
- who is 2158
- certificate of 2158
- exemption authorized by such certificate 2159
- exemptions of certain firemen. 2159
- fire limits, board of commissioners may establish 2163
- incorporated cities towns and villages, fire companies in see companies 2157
- privileges and exemptions see exemptions 2158
- record of certificates kept by secretary of fire department, or company 2160
- seal, department 2160
- secretary of department having seal, oath and bond of 2160
- unincorporated towns and villages, fire department and commissioners in 2157
- unpaid fire companies, exemptions of officers and members of see exemptions 2158
- woods or grass, setting on fire, ... 2144
- woods or grass, on fire, extinguishing or stopping fire 2144

FISCAL YEAR
- 2515, 3425

FISH AND GAME,
- penalties, where prescribed 2073
- see game and fish warden 2075, 2080

FORTS AND FEDERAL BUILDINGS
- on what terms United States may condemn or purchase land for 20

FREE PUBLIC LIBRARY,
  See Library, Public.

FUNDED DEBT,
- of cities and towns 3522-3534
- judgment may be funded 3530

FUNDS,
- bond or sinking 3567
- contingent 2576
- school 1234-1239
- road 1725-1731
- poor .... 2850, subs. 5, 13, 3154
- special stock indemnity. 1980, 1981, 2002, 2035
- general 273

GAME AND FISH WARDEN,
- appointment of 2075
- bond 2080
- duties 2076
- suspension of 2077
- compensation of 2078
- offense, when prosecuted 2079

GAME AND FISH,
- penalties, where prescribed 2073

GENDER,
- construction of words of, in this Code. 16

GENERAL FUND,
amount to be raised by taxation for... 2515
consists of what moneys.............. 271
contingent what 2877
GOVERNMENT
seat of, see seat of government........70-74
GOVERNOR,
appointments made by, of executive officers with consent of Senate...... 212
list of certain when to be transmitted to legislative assembly 221
of every officer unless otherwise prescribed, made by.................... 533
attestation of official acts of, by secretary of state.... .... 238 sub 3
canvassers State board of, to determine vote and transmit statement thereof to Governor..... 807
civil executive officer, is. 197
commander in-chief, as, see that separate head.. 1300-1366
commission, what officers Governor must. 542, 800
commissioners of deeds, may appoint.. 505
may revoke..... 505
commissions of officers, signed by ..541, 542
issued to elected officers by.... 809
Contract for keeping insane,
compensation of... 224
Congress members of to transmit certificate of election to. 912
contesting election for 200
see under contesting election........145, 146
duties of, and powers. 220
to transmit to legislative assembly list of certain of his appointments to fill vacancies 221
to cause certain official records to be kept...... 222
election of, mode of prescribed by Constitution. 201
elections special, when for congressman 872
returns on............................805-873
election proclamations by.......... 653, 654
ex officio positions of................. 220
board of examiners............ 220
State board of education 220
State board of land commissioners 220
State board of equalization............ 220
State board of prison commissioners.... 220
board of commissioners of insane, deaf, dumb and blind...................... 220
examiners, State board of, is member of,...... 208
is chairman of...... 208
member of State board of equalization. 204
of education...... .. ..205, 930
of examiners.................. 208
of land commissioners.... 211
of State board of prison commissioners, 209
board of commissioners of insane...... 220
executive officer, civil, is...........196, 197
executive officers, certain, appointed by 212
judges to appoint in case of tie vote... 871
legislative bills, approval of by......... 166
disapproval of by.... 167
indorsement of, on reception by....... 165
Non-action on, See Unsigned.
objections to, return with.... 166
objections to items of appropriation bill, how indicated......... 166
retention of, beyond five days......... 169
return of by..... 167
return when house not in session .. 168
unsigned, remaining with five days.... 167
veto of by....... 160
signing after final adjournment........ 170
militia, when may call out. 1495
roll of, must transmit to legislative assembly.............................. 1355
national guard, is commander-in-chief of.................................... 1372
nomination of officers by, how made.. 541
copy of senate resolution of concurrence in, sent to.......................... 541
notaries public appointed by.......... 486
oath of office, when taken and how entered......... 550
officers commissioned by 542
official bonds of State officers must be approved by......................... 573

GOVERNOR—Continued.
persons acting as, application of provisions to......... 223
powers and duties of................ . 220
attach to Governor pro tempore...... . 223
presidential electors, duty concerning returns of....... 882
private secretary of appointment 213
salary............... 225
to sign indorsement of legislative bills delivered to Governor.............. 165
is executive officer 198
appointed by Governor, and holds office at pleasure of 213
salary, covering ex officio services..... 225
pro tempore. 223
records, to cause certain to be kept.... 222
residence of required 525
resignation of, mode of...... 617
resignations to, made by commissioned officers........ 617
school lands, duties as to 2320-2364
salary of 224
State Treasurer, must take possession of office of in case of default embezzlement or negligence. 280
suspend treasurer, when.............. 281
appoint temporary treasurer........... 281
must report to legislative assembly.... 281
tie vote for 601
vacancies mode of filling by 617-624
GRADE,
change of in cities and towns, proceedings............ ....3480 3485
GRAIN,
see toll for grinding grain.........2180-2182
GRAZING LANDS,
see lands, State........ 2320-2364
GREAT SEAL,
see under seal.... ....635 636
custody of.... 237
GUARD RAIL
see elections... 792
HEALTH,
boards of, powers and duties.. 1900-1904
how appointed. 1900
duties and regulations. 1901
may declare quarantine.... 1902
physicians to report disease 1903
expense, how paid...................... 1904
HISTORICAL SOCIETY,
.... 1652
HIGHWAYS AND ROADS,
Highway and Road Labor
certificate of performance of.......... 1727
commutation rules concerning......... 1727
commutation work in lieu of......... 1727
corporations liable for, of employes.... 1756
corporations or other employers responsible for road poll tax of employes... 1756
how charged with..................... 1756
credit with employer liable for........ 2071
done under direction of road overseer or commissioner 1740
employers of residents in any road district responsible for road poll tax of employes, and liable to pay same on notice....... 1755
employers liable for assessed against employes within the district........ 1756
labor, notice to perform............... 1739
neglect to perform... 1739
payment of money in lieu of work..... 1740
tax collected from persons not holding certificate............................ 1739
time in which it may be performed.... 1798
account of highway labor and money to be furnished by road supervisor . 1744
commutation in lieu of............. .. 1744
corporations or other employers responsible for road tax of employes........ 1756
how charged with............. 1756
delinquent who is... 1739
duration of daily work required........ 1740
employers of residents in any road district responsible for road tax of employes and liable to pay same on notice............... 1755
report of highway labor and money.... 1744
penalty for failure in either............ 1750
road supervisor, supervision of work by, report and accompaniment...1735-1750

HIGHWAYS AND ROADS—Continued.
  substitute allowed ... 1739
  time lost or idled away, how made up. 1739
Highway Officers,
  boards of commissioners, duties as .. 1716
  supervisor, bond of ... 1736
  general duties of ... 1717
  as to roads and bridges ... 1717
  compensation of ... 1738
  road supervisor or road master ... 1735-1750
Highway Taxes,
  annual property tax for road purposes, levy, assessment collection and disposition of ... 1725
  annual road poll tax ... 1725
  how expended ... 1728, 1812
  blank road poll tax receipts, disposition of ... 1741
  commutation work for road poll tax ... 1726, 1727
  poll tax, duty of assessor as to ... 1755
  poll tax, assessor must obtain list ... 1756
  must pay to treasurer ... 1757
  assessor must return list ... 1758
  powers of assessor ... 1758
  general road fund set apart from ... 1728
  labor generally ...
    See Highway Labor.
  levy assessment and collection of .. 1725 1731
  property highway tax, commissioners to fix and levy ... 1725-1731
  property road tax, general road fund from ... 1728
Road tax,
  annual, see annual road poll tax ... 1725
  property, see property road tax ... 1725
  receipts, see blank road tax receipts ... 1742, 1743
  duties of road supervisor as to ... 1744
  liability of corporations and other employers of persons in road districts for ... 1756
  special tax ... 1718
Highways,
  abandonment of ... 1701
  acceptance of, what acquired by ... 1710
Boards of Commissioners,
  abandonment of public highways by order of ... 1818-1837
  authority as to sidewalks on ... 1711
  to levy property highway tax ... 1725
  see further ... 1700
  bridges ... 1850-1855
  clerk of board must keep record of proceedings ... 1704
  contracts in violation void ... 1729
  county commissioners, liability of ... 1730
  courts laid out by or dedicated to the public ... 1700
  crossing railroads, canals or ditches ... 1834
  definition of ... 1700
  ditches across, bridging of ... 1834
  driver, intoxicated of vehicle for passengers upon ... 1888
  discharge of ... 1889
  not fastening horses while standing .. 1890
  recovery of penalties ... 1891
  owner liable for damages by ... 1892
  encroachments on, road supervisor may require removal of ... 1786
  notice to remove ... 1789
  penalty for failure to remove ... 1796
  summary removal, where vehicles cannot pass ... 1791
  action to abate, where existence denied and removal objected to ... 1791
  penalty and costs recoverable in such action ... 1791
  whoever obstructs liable for damages. 1793
  water storers liable for damages .. 1794
  other persons liable ... 1795
  removal of trees ... 1797
  injury to ornamental trees ... 1799
  notice to non-residents ... 1800
  duty of county attorney ... 1801
  removal at expense of owner, etc., where encroachments neither denied or removed ... 1792
  enumeration of ... 1700-1704
  franchise, expiration or abandonment of ... 1701
HIGHWAYS AND ROADS—Continued
  injuries to, see constructions and injuries to ... 1786-1801
  labor on ... 1735-1750
  lands laid out by or dedicated to the public ... 1845
  law of ... 1807
  obstructions and injuries to ... 1786-1801
  penalty for ... 1796
  see encroachments ... 1788-1792
  origin of ... 1700
  overflow or seepage upon, liability for. 1794
  partition of real property, creation by .. 1700
  penalties and forfeitures, recovery and application of ... 1801
  places laid out by or dedicated to the public ... 1700
  public easement in ... 1710
  right of way upon, record of conveyance or condemnation of ... 1833
  road is highway when ... 1701-1703
  becomes highway when ... 1703
  road register, keeping and contents of. 1715
  rules and restrictions respecting use of ... 1710, 1711
  sidewalks on ... 1711
  snow upon ... 1887
  taxes for see highway taxes ... 1725 1731
  toll roads prohibited ... 1883-1886
  trails laid out by or dedicated to the public ... 1845
  treasurer, liability of ... 1731
trees along, mode of planting and liability for injuring ... 1790
  removal of fallen from ... 1796
  felling into ... 1797
  injuring or destroying shade or ornamental on ... 1799
  trespass on sidewalks of ... 1711
  vacated ... 1703
  width required ... 1702
  of private ... 1702
Bridges
  erection etc ... 1850-1854
  maintenance of ... 1852
  special tax may be levied ... 1851
  construction and repair ... 1853
  bids, contract and bond ... 1853
  between counties ... 1854
  meaning of word ... 1855
  see ferries ... 1860, 1875
Road,
  highway, public road, declared ... 1700
  tax ...
See Under Highway Taxes, especially subtitle Road Poll Tax.
Road District,
  clerk of commissioners to keep record of matters concerning ... 1704
  division of counties into ... 1715
  freeholders of, who may petition for change of road ... 1818
  limit of debt to be placed on ... 1725
Road Fund,
  general county ... 1728
  of district awards payable out of ... 1808
  officers charged with notice of condition ... 1929
  apportionment of ... 1812
Road Supervisors,
  action by to abate encroachment as a nuisance ... 1790
  for penalties and forfeitures ... 1796
  appointment of ... 1735
  annual road tax commutation, under control of ... 1728
  blank road poll tax receipts, delivery to and account thereof ... 1741
  blanks, must deliver up remaining ... 1745
  bond ... 1736
  additional ... 1747
  bridges, driving over ... 1798
  buildings, notice of encroachment of on highways ... 1788
  driving fast, notices concerning put up on bridge by ... 1798
  drains and ditches ... 1753
  damages ... 1759
  duties of ... 1717
  employ laborers, teams etc. ... 1767
  keep an account of all labor, etc. ... 1768
  detailed statement of ... 1769

HIGHWAYS AND ROADS—Continued.

- settlement with commissioners 1770
- encroachment on highways may orally or in writing require the encroachment to be removed ... 1788
- notice given to the occupant or owner of the land or person causing or owning the encroachment ... 1789
- if such as to effectually obstruct the use of the road for vehicles he must remove ... 1790
- if encroachment is denied or owner or occupant refused to remove, supervisor must commence action to abate the same as a nuisance ... 1791
- may recover penalty and costs ... 1791
- if not denied and not removed, may remove at expense of owner or occupant ... 1792
- with penalty and costs ... 1792

Incumbents of Office of,
- to remain until end of term ... 1735

Implements,
- purchase of ... 1780
- must preserve implements ... 1781
- liability on bond for special tax ... 1746

Meetings to Consider Condition of Bridges,
- to be present at ...
- new highway to open or construct. 1766

Notice on Bridges,
- as to fine for fast driving, may put up .. 1798
- of encroaching fences or buildings by ... 1788-1792
- to perform labor ... 1739
- open road to public, when ordered to .. 1705
- county clerk must make certificate copy of order ... 1832
- obstructions, removal of ... 1786-1801
- expense, how paid ... 1787
- encroachment on highway ... 1788
- notice to occupant ... 1789
- duty of supervisor ... 1790
- suit to remove ... 1791
- when supervisor may remove ... 1792
- damages, who liable ... 1793
- water storers liable for damages ... 1794
- others ... 1795
- penalties and forfeitures prescribed in chapter on highways, to recover and apply ... 1796
- powers ... 1717
- receipts ... 1744
- removal ... 1750
- repair of ... 1766
- report to county commissioners ... 1744
- teams, etc., supervisor may procure ... 1767
- term of office ... 1735
- trees, obstructing, removed under direction of ... 1797
- trees, ornamental ... 1799
- vacancies, how filled ... 1737
- woods or fields on fire ... 2162

Work,
- report to county commissioners as to. 1744
- inspection of by county commissioners ... 1806-1808
- compensation ... 1807
- report ... 1808

Opening, Laying Out and Changing,
- altering, ...

See Laying Out, Altering and Discontinuing.

Board of Commissioners,
- clerk of to keep records as to road matters ... 1704, 1716
- to divide counties into road districts ... 1715
- general supervision of the roads of their counties, by ... 1716
- to set apart sum for general county road purposes ... 1716
- power to allow commutation work for annual road poll tax ... 1727
- may impose road poll tax of three dollars ... 1725
- to levy property highway tax ... 1725
- and road tax ... 1725
- control over road supervisors ... 1717
- action in proceedings to change roads. ... 1818, 1820-1822, 1824

Clerk of Commissioners,
- duties concerning ... 1704

Discontinuing,

See Laying Out, Altering and Discontinuing.

HIGHWAYS AND ROADS—Continued.

Highways,
- when roads are ... 1700
- laying out, altering and discontinuing. 1818
- petition for, who may make ... 1818
- contents of petition ... 1819
- viewers ... 1820-1823
- action of commissioners on report of viewers ... 1822
- notice to non consenting land owners. 1824
- hearing, determination of damages, and approval or rejection of report 1824
- on approval (and acceptance of awards) road declared public highway ... 1825
- survey when ... 1825
- notice of opening ... 1830
- opening through fields ... 1831
- damages and determination of ... 1831
- where awards rejected, see non-consenting land owner.

Non-consenting Land Owner,
- in proceedings to open roads, etc ... 1827
- notice to appear before commissioners. 1824
- commissioners to ascertain and declare amount of damage awarded to ... 1824
- setting apart award and effect of acceptance ... 1825
- on rejection of reward by, board of commissioners must direct proceedings to procure right of way and when such right is secured, must open the road ... 1827
- funds out of which awards payable ... 1828
- on opening of private or by-road 1845

Petitioning.
- for laying out, altering and discontinuing road ... 1818-1820
- freeholders of road district who may petition ... 1818
- what petition must specify ... 1819
- private, how opened ... 1845
- removal of fences on alteration or opening of road, by road supervisors after notice ... 1835
- right of way for, record of conveyance or condemnation of ... 1833
- railroad and ditch companies ... 1834
- streets in cities, are not county roads .. 3431
- roads must be laid out on section lines if possible ... 1836
- change to subdivision lines when ... 1837
- supervision of ...

See General Supervision of, Supervisors of.
- surveyor as road viewer, compensation of ... 1716
- taxes for, see highway taxes, especially sub-title road tax ... 1725-1731

Viewers,
- commissioners to appoint three, in proceedings to lay out, alter or discontinue roads ... 1820
- one must be a surveyor ... 1820
- see county commissioners ... 2850
- must be disinterested citizens of county 1821
- purposes of appointment ... 1820
- duties and proceedings ... 1821
- compensation of ... 1823

Toll,
- see ferries ... 1860-1876

HOLIDAYS,
- acts appointed for, postponement of ... 12
- definition of ... 10
- enumeration of ... 10
- last day falling on, excluded in computing period ... 11
- Sunday, when certain fall on ... 10

HORSES,

See Animals.

HOUSE OF REPRESENTATIVES,
- officers and employes of ... 100
- members of, term of office, election . 87, 88, 89
- organization of ... 94

INDEBTEDNESS,

Of Cities and Towns,
- not to exceed amount in fund ... 3403
- limited ... 3510, 3511
- power to borrow money, limited ... 3512
- question of borrowing money must be submitted to electors ... 3513, 3514
- issuing bonds for, form of bonds and proceedings ... 3515, 3519

INDEBTEDNESS—Continued.
- additional for sewer and water works 3520, 3521
- funded 3522-3524

Of Counties,
- board of county commissioners may issue bonds.............................. 2860
- proceedings for issuing, selling and redeeming bonds 2861-2870
- lost bond or warrant.... 2871-2875
- redeeming outstanding. 2866
- board must levy tax annually to pay bonds and interest 2867
- county treasurer must pay the interest. 2868
- unpaid county warrants draw interest. 2870

Of State,
- See Constitution of State, Article XIII.

INSPECTOR OF BOILERS,
- appointment of.....................212, 340
- bond and salary.... 340
- who may be appointed.... 341
- assistant inspector and qualifications.. 342
- salary of assistant and bond.......... 342
- office at seat of government 343
- rules and examination. 343
- duties 344
- boilers how inspected. 344
- safety valves 345
- subjecting boilers to pressure 345
- approval of boiler. 346
- assistant may inspect 346
- annual and other inspections.......... 347
- owners must allow inspectors free access........... 348
- license, when to issue................ 349
- classification of engineers............ 350
- complaints against engineer, duty of inspector 351
- notice to be given when applications and examinations may be made...... 351
- certificate of inspection................ 352
- penalties, where prescribed 352
- fees.... 353
- rejected applicant may apply again... 354
- board to re-examine applicants . 355
- exemptions from license 356
- fees... 357
- report to Governor................... 357
- when to be made..................... 187
- liability for unlawful use................ 358
- civil executive officer.. 198
- penalties, where prescribed........... 359

INSPECTOR OF MINES,
- appointment of............ ......212, 370
- civil executive officer.................. 198
- qualifications and term................. 370
- duties 371
- salary 371
- deputy inspector, appointment of, qualifications and term................ 371
- duties of deputy..... 371
- bond of deputy 377
- compensation of deputy................ 371
- examination of mines.............. ... 372
- complaint..... 373
- duties of inspector upon receiving complaint 374
- notice to owner or lessor............. 374
- evidence of gross negligence...... .. 374
- annual inspection....... 375
- accidents 376
- person in charge to notify inspector in case of accidents................... 376
- coroners' inquests, duty of inspector.. 376
- verified statement of those first present after accident 376
- official bond of inspector.................. 377
- annual report to Governor................. 378
- what report must contain................ 378
- certain mines not to be inspected...... 379
- penalties, where prescribed 389
- duties as to coal mines...........2230-2245

INSPECTOR GENERAL,
- see militia 1483, 1373

INDEX TO BE KEPT,
- by clerk district court 3050
- by county clerk...... ....3009, 2845

INSANE ASYLUM,
- board of commissioners for the insane. 1551
- board, officers of................ ... 1551
- board, powers and duties of.......... 1552

INSANE ASYLUM—Continued.
- board must contract for care and keeping of.......... 1553
- board may reject all bids.... 1554
- board must provide for....... 1555
- contract let to lowest bidder. 1553
- notice. 1553
- contract, what must specify. 1557
- contract, what must provide. 1559
- contractor must give bond 1558
- contractor must make quarterly report. 1559
- reports by board........ 1559
- board of examiners, duties of.... 1559
- State Auditor 1559

General Provisions,
- board may send patients to friends..... 1565
- may contract with some other institution........................ 1566
- idiotic persons considered insane persons 1567
- insane convicts....... 1575
- non-resident insane.... 1576
- insane not indigent must be paid for... 1577
- discharge of patients....... 1578
- indigent persons discharged furnished with money and clothes..... 1569
- postal rights of insane persons....1570, 1571
- postoffice box must be provided 1572
- posted name of correspondent......... 1573
- copy of laws posted..... 1574

INSANE PERSONS,
- see examination and commitment of insane persons... 1590-1601

INSTITUTES, TEACHERS,
- to be held annually in certain counties. 1050
- when held in other counties........... 1051
- length of sessions...... 1052
- pay of teachers in attendance. 1053
- expenses of institute, how paid 1054

ITEMS
- in appropriation bills 166, 167

INTERPRETATION.
- rule of, general, as to words and phrases......................... ....15, 16, 17

INTOXICATING LIQUORS,
- See Local Option.

JANITOR,
- see under legislative assembly......100, 101
- compensation......................... ... 122

JOINT AUTHORITY.
- words giving construed............... 4

JOINT RESOLUTION,
- when takes effect........................ 176

JOURNAL.
- see legislative assembly.............110, 108

JUDGE OF THE DISTRICT COURT,
- See Judges and Judicial Officers.

JUDGES OF ELECTION,
- see elections.. 730-743

JUDGES AND JUDICIAL OFFICERS
- number, designation and election of where prescribed 452
- of the supreme court, salary,.......... 453
- of supreme court, must supervise publication of reports.............. 473, 474
- must appoint a marshal. 485

Of the District Court,
- salary.................................... 454
- bonds of county commissioners, must approve......................... 2838
- town sites, must enter lands for in unincorporated towns.......... ... 3630

Of Justices' Courts,
- See Justice of the Peace.

Of Police Courts,
- salary of,...................... 3358
- justice may act, when...... 3359
- court established.................... 3465
- jurisdiction of........................3466-3469
- proceedings in.......................... 3471
- who may practice in 3472

JUDICIAL DISTRICTS,
- 61

JUROR,
- inhabitant of city or town competent.. 3572

JUSTICES OF THE PEACE,
- constables to attend courts of. 3120
- contested elections, taking testimony in 132-135
- coroner, may act as................ 3084
- duties of where prescribed............ 3123
- election and terms of................... 2995

JUSTICES OF THE PEACE—Continued.
lost property, functions where found 1930-1932
oaths, may administer and certify 2935
police judge, when to act as 3359
salary 3359
fees of, see salaries and fees of officers 3130, 3196, 3178
JUDGMENT,
money, how stated in 2112
in actions against assessor for neglect. 2454
tax to operate as 2510
against cities and towns, how paid. .. 3567
funded, may be against cities or towns. 3568
JUNK DEALERS,
see pawnbrokers 2208-2214
JUSTICES OF SUPREME COURT,
reports, published under supervision of. 470-479
residence of 525
salaries of 453
LABOR
See Employer and Employe
LANDS, STATE,
state board of land commissioners 2320
composition of 2320
duties 2321, 2322
must provide maps and plats and classify land 2323
lands and funds to be marked on map .. 2324
selling and leasing 2325
selections must be made in legal subdivisions 2326
books to be made showing character of land 2327
lands may be disposed of at public auction 2328
notice of sale to be published 2329
sale must take place at county seat 2330
thirty per cent. of purchase price paid. 2330
purchaser must pay to treasurer 2331
penalty for not paying 2331
bond must be given for balance due 2332
patent must issue on production of certificate 2333
lost certificate 2334
unpaid balance due on bond, how enforced 2335
board to hear and determine claims 2336
unsold lots may be sold at appraised value 2337
may be sold again 2338
land with improvements may be sold to owner 2339
state may purchase 2340
land, how assessed for five years 2341
money paid must be invested for benefit of fund 2342
board may lease land 2343
county commissioners to appoint appraisers 2344
appraisement and fees of appraisers ... 2344
county clerk must file appraisement ... 2345
county treasurer may sell lands 2346
certain officers forbidden to purchase or lease 2347
lands adjacent to city or town, how sold 2348
owner of improvements may remove same 2349
school lands, county superintendent to report condition 2350
right of way, how granted through State land 2351
alternate lots may be sold in town additions 2352
reports 2353
occupant has the preference in buying or leasing 2354
leasing grazing lands 2355
funds must be inviolate and not transferred 2356
proceeds of sale, how invested 2357
patents and leases, how signed and issued 2358
expenses, how paid 2359
who guilty of perjury 2360
trespassing or injuring, penalty 2361
purchaser liable for waste 2362
fines and forfeitures, into what fund paid 2363
meaning of lands of State 2364

LANDS, STATE—Continued.
State agent,
see state land agent 201
Mineral commissioner,
see mineral land commissioner 202
Of the United States,
entry thereon for city and town sites, incorporated 3600-3620
entry thereon for unincorporated towns. 3630-3654
See Cities and Towns.
Indemnity lands,
See State Land Agent.
School land,
See State Land Agent, Enabling Act.
Land commissioners,
see State board of land commissioners 2320-2364
LAW,
common law of England as rule of decision in courts of this State 3756
definition of 3754
definition and sources of 3754-3756
expression of will of supreme power, law is 3754
mode of 3755
practising, certain county officers prohibited from 2937
road, of the 1857
rule of decision, see common law 3756
LAWS,
repealed by this Code 17
LEGISLATIVE BILLS,
appropriation bill 166
arrangement of, at close of session 116
approval of by Governor, mode of 166
deposit thereupon, in office of Secretary of State 166
authentication of bill passed over veto. 167
of bill becoming law by lapse of five days without return 169
close of session, at, how treated 116
disapproval of by Governor, partial or entire 166
endorsement of on receipt by Governor 165
Items of Appropriation Bill,
Governor may object specially to 166
grounds to be stated 166
copy of such statement to be transmitted to house 166
items to be separately reconsidered, as in case of bills disapproved 166
if then passed, how authenticated ... 167
delivery to Governor and deposit with the laws in office of Secretary of State 167
labeling of at close of session 116
law, when vetoed bill (or items thereof) becomes, authentication and deposit of 167
when bill becomes by lapse of five days without return, authentication and deposit of 169
marked, labeled and arranged at close of session 116
non-action of Governor on within five days 169
passage of 169
presentation of to Governor 165
printing of 166
reconsideration of and passage over veto 167
remaining with the Governor more than five days, and thereby becoming laws 169
after final adjournment, fifteen days ... 170
return of by Governor 167
when house has adjourned for the day. 168
lapse of five days without bill becoming a law by 167
Secretary of State, authenticated laws deposited in office of 167-169
five days, non-return of bill within 169
veto of 167
LEGISLATIVE ASSEMBLY,
apportionment of representation, see senatorial and assembly districts 57-59
arrest of witnesses for failure to attend before 159
assemblage of, where and how often .. 90
attendance of witnesses before, how secured 158, 159

LEGISLATIVE ASSEMBLY—Continued.
- certificate of election of members of, potency of..... 91
- presentation of..... 94
- election of officers of house of representatives..... 94
- clerk of house of representatives, duties of..... 108, 116
- assistant..... 109
- clerks, engrossing and enrolling, duties..... 114-116
- journal..... 110
- employes' duties..... 113
- close of session, endorsement, arrangement and disposition of bills and papers at..... 116
- power over witnesses..... 156-160
- compensation of members officers and employes of..... 120-123
- consent to acquisition of State land for federal buildings, forts, magazines, etc., conditions of..... 29
- contempt, commitment of witness for..... 158
- contesting election for members of..... 130-140
- contracts, must not be interested in..... 558
- criminating or degrading question must be answered by witness before..... 160
- employes of..... 100-102
- examination before, or before committee, scope and character of..... 160

Examiners, State Board of,
- functions of legislative assembly concerning claims before..... 410, 422, 426

Journals Kept by Each House,
- oath of members entered on..... 95

Clerks for Keeping,
- See Under Clerks.
- distribution of..... 239
- number of, to be printed..... 239

Members of,
- number of..... 85
- term of office of..... 86
- must not be interested in contracts..... 558
- election of representatives and senators..... 87, 88, 89
- term of office of senator..... 86
- of representative..... 86
- majority elects..... 96
- qualifications of.....
- contesting election..... 130-140
- resignation of, mode of making..... 617

Membership,
- certificate of election is prima facie evidence of right to..... 91

Mileage,
- see per diem and mileage..... 120
- of president and speaker..... 121

Oath of Office,
- constitutional, when taken..... 94
- entry of, on journal..... 95
- who may administer to officers and members..... 107
- when may be taken by members..... 551

Oaths to Witnesses
- members of any committee may administer..... 107

Officer,
- mode of selection of, when directed by..... 532

Officers of,
- time of election of, in each house..... 9394
- enumeration of, and of employes..... 100, 101
- mode of selection of..... 102
- powers and duties of, and of employes..... 107-116
- compensation of, and of employes..... 120-123

Organization,
- of houses of..... 93, 94

Per Diem and Mileage,
- of members of..... 120
- of speaker of the house..... 121
- absentee not excused..... 97
- printing for..... 434
- quorum of..... 97
- compelling attendance..... 97
- resignations to by members of..... 617

Senate,
- officers of..... 100
- secretary of senate, duties of..... 108, 116
- secretaries, assistant, of senate, duties of..... 109, 116

LEGISLATIVE ASSEMBLY—Continued.
- sergeant-at-arms of each house of, duties of..... 111
- assistant of duties of..... 111
- sessions of, frequency of..... 90
- services of certain officers at close of session..... 115
- compensation therefor..... 123
- subpoenas for witnesses before..... 155, 157
- tie vote for Governor or Lieutenant Governor, to decide..... 61
- treasurer, books of open to inspection of..... 73

Vacancy,
- in either house of, filling..... 66
- in office during recess of, temporarily filling..... 62

Witnesses,
- attendance and examination before, enforcing..... 156-160

LEASING,
- see lands, State..... 2320-2354

LIBRARY,
- public of city or town, trustees of..... 3353
- council may establish and proceedings..... 3569-3571

State,
- See State Library.

LIBRARIES,
- school district, see under schools, public..... 1184-1188

LICENSES,
- architect..... 2757
- agent, real estate or loan..... 2759
- animals hired out for propagation, for..... 2755
- assayer..... 2751
- auctioneers, classification and amounts of tax..... 2732
- county clerk, blanks for, furnished by..... 2720
- execution and delivery of by..... 2721
- account of, with treasurer concerning..... 2722
- authority conferred by..... 2723
- bagatelle table..... 2732
- bankers, of, classification and amount of..... 2737
- billiard tables, of proprietors of..... 2733
- blank..... 2720
- brewers..... 2746
- brokers, of..... 2737
- bullion, of dealers in..... 2737
- butchers..... 2740
- builder..... 2759
- charitable entertainments exempt..... 2735
- city license ordinance..... 2743
- circus..... 2738
- clubs..... 2739
- carriages..... 2739
- concert singer..... 2738
- corrals..... 2750
- contractor..... 2759
- common carriers..... 2751
- coin, of dealers in..... 2737
- delinquents, suits against..... 2724
- delivering..... 2721
- dentist..... 2749
- dining car..... 2761
- distiller..... 2746
- electric light company..... 2748
- eating stand..... 2752
- estimate of probable amount of business, required as basis of license..... 2725
- exhibitions, of menagerie circus, sleight-of-hand, etc., for..... 2738
- express companies..... 2750-2755
- fee for..... 2728
- feed stable..... 2750
- ferry..... 2755
- gas company..... 2748
- gold dust of dealers in..... 2737
- hawker, of..... 2741
- hotel..... 2752
- inquiry as to persons liable to pay..... 2725
- intelligence offices, of keepers of..... 2738
- lawyer..... 2749
- laundry..... 2756
- laundry, steam..... 2757
- license must be procured before commencing business..... 2723
- liquor, retail..... 2739
- liquor, in large quantities..... 2740-2741
- liquor used for medical purposes, no license for..... 2741

LICENSES—Continued.
lien for 2729
livery stable.... 2750
loaning money at interest, persons engaged in, classification and amounts of license tax.... 2737
lodging house.... 2752
manufacturer of spirituous liquors..... 2746
manufacturer.... 2759
menagerie.... 2738
merchants.... 2740
money, dealers in, classification and amount of license tax of.... 2737
moneys from, disposition of. 2730, 2727
newspaper publisher.... 2759
numbering.... 2721
omnibuses.... 2750
pawnbrokers, of.... 2738
peddlers, of.... 2742
physicians 2749
physicians not required to obtain for preparation of medicine.... 2740
pools, on races.... 2744
pool table 2738
products of this State excepted.... 2742
pleading in bar of action authorized herein.... 2726
procuring, when required.... 2723
proof of.... 2726
profession.... 2749
photographer 2749
races pools on.... 2744
railroad, horse, steam or electric.... 2758
required of persons liable to.... 2725
revocation on conviction of violating law.... 2731
restaurant.... 2752
sample sellers'.... 2742
sales at fixed place of business....2740, 2741
sales on cars.... 2762
sleeping car.... 2760
sealing 2721
separate.... 2723
shows not otherwise provided for.... 2738
shooting gallery.... 2738
skating rink 2754
stub of licenses.... 2722
statement of volume of business.... 2725
stocks, notes, bonds, etc., dealers in, classification and amount of license tax of.... 2737
stable, feed or livery.... 2750
surgeon 2749
tax, license, recovery of.... 2724
treasurer, duties concerning licenses .. 2725
settlement by.... 2727
telephone, telegraph company.... 2748
theatres of.... 2738
traveling merchant.... 2742
underestimate of volume of business, penalty for.... 2725
unsold return of.... 2727
water company.... 2755
license tax levied by city or town.... 3455
LIEN,
taxes as.... .....2519, 2520, 2661, 2478
of certificate of sale for.... 2583
LIEUTENANT GOVERNOR,
compensation of.... 231
contesting election for....145 146
see under contesting election.... ..145, 146
duties of, prescribed in Constitution... 230
election, mode of, prescribed by Constitution.... 200
contesting....145, 146
generally....230-232
Governor, as.... 223
mileage of, and per diem.... 232
oath of, official.... 550
per diem, and mileage of.... ....231, 233
resignation of, must be in writing.... 617
to whom made 617
session of legislative assembly, per diem, mileage.... 231
speaker of the house, same per diem... 231
tie vote for.... 661
LIMITATION,
period of, how affected by Code.... 9
LOCAL OPTION,
election when ordered.... 2125
notice of election.... 2126
regulations.... 2126
LOCAL OPTION—Continued.
qualification of voters.... 2126
ballots, what to contain.... 2127
election, how held.... 2128
intoxicating liquors, dealing in prohibited, when 2129
election once in two years.... 2130
sale of liquors prohibited.... 2131
penalty for violation.... 2132
election, how contested.... 2133
LOAN,
question of making....2885-2889
LOST AND UNCLAIMED PROPERTY,
....1931-1943
See Lost Property, Unclaimed Property.
LOST PROPERTY,
appraisers of, summoning of by justice of the peace.... 1931
sworn lists of the valuation and description by.... 1931
filing, recording and posting lists.... 1932
discovery of, forfeiture for failure to make.... 1935
finder of lost money, goods etc., restitution or affidavit by.... 1930
to record and post lists made by appraisers.... 1933
publication by.... 1933
when title vests in.... 1933
when bound to restore.... 1934
concealing.... 1935
owner appearing when entitled to restoration or recovery of.... 1934
proof of property by.... 1936
saving domestic animal from starvation or drowning, restitution or affidavit on.... 1930
MAGISTRATE,
signification of term in this Code.. 16, sub. 9
MAJORITY,
of persons having joint authority may act 14
MAYOR,
of cities of the first and second class and towns....3335-3337
salary of 3357
powers of.... 3376
to preside at meetings of council and sign warrants etc 3377
MEDICAL EXAMINERS, BOARD OF,
appointment of 212, 390
qualifications and term.... 390
repeal of former act when to take effect 391
organization of board.... 392
president and secretary may administer oaths.... 392
meetings, time of, at seat of government.... 392
record of proceedings must be kept.... 392
register of all applicants.... 392
what register must show 392
physician not to practice without license.... 393
if graduate presents diploma how license obtained.... 393
if not a graduate how license obtained. 393
ten years' practice in Territory or State 393
examinations.... 394
board may refuse certificate.... 395
hearing upon notice before refusal.... 395
copy of charges must be served 395
decision must set forth grounds and must be delivered to applicant.... 395
time of hearing.... 396
board may revoke certificate, how.... 397
appeal may be taken from order revoking certificate 398
appellant may practice during pendency of appeal.... 398
refusal of or revocation of certificate, appeal from order.... 399
appeal, how taken.... 399
appeal from district court to supreme court.... 399
certificate must be recorded.... 400
county clerk must indorse on certificate date of record 400
penalties for practicing before record of certificate.... 400
mid-wives, certificate not necessary.. 401
other exceptions.... 401
penalties, where prescribed.... 402

MEDICAL EXAMINERS—Continued.
  fees to be paid in advance by applicant 403
  mileage of members of board 404
  board must report to Governor, when, and what to contain................ 405
  if surplus, must be paid into State treasury 405
MAP BOOK,
  for revenue purposes..............2445, 2446
MAPS,
  for use of assessor 2450
  of boundary lines validated............ 2504
MARKS AND BRANDS,
  Secretary of State general recorder ... 1950
  county clerk recorder for county....... 1950
  application for, to whom made .. 1951
  Secretary of State to publish list...... 1952
  venting marks and brands 1953
  hides of slaughtered cattle........ 1954
  butchers to keep record 1955
  see trade marks. 2115, 2116
MARSHAL OF SUPREME COURT,
  appointment and term..... 455
  duties 456
  compensation........ 457
  accounts of............ 458
MARRIAGES, REGISTRY,
  see births, marriages and deaths...1909-1914
MASCULINE GENDER,
  includes what, in this Code............ 16
MAYOR,
  See Under Cities.
MEASURES,
  See Weights and Measures
MEMBERS OF CONGRESS,
  Election for See Under Elections.
MILEAGE,
  of members of legislature..... 120
  of speaker of house of representatives. 121
  of Lieutenant Governor................ 231
  of county treasurer, for seizing or selling movable personal property...... 2599
  county treasurer of, allowance of 2599
  county treasurer of, deduction by State Auditor of 2673
MILITARY,
  See Militia.
MILITARY DUTY,
  persons subject to 1350
  persons exempt from................... 1351
  roll of persons subject to 1352
  board of equalization must correct roll. 1353
  penalties for assessors' failure......... 1354
  duties of clerk of board of county commissioners as to roll......... 1355
MILITARY PROPERTY,
  of state 1417, 1418, 1363, 1364
MILITARY ROLL,
 1352-1355
MILITIA,
  ....1350-1355, 1495-1519
Actual Service,
  calling and drafting into...........1495-1519
  army officer, federal upon call of...... 1495
  bravery or gallant service preference for vacancy on ground of............ 1517
  call, when made 1495
  by whom made.... ... . ..1495, 1496
  how made 1497
  notification of.... 1498
  cases, when authorized.... 1495
  city, chief executive officer of, upon call of..... 1495
  commander-in-chief to issue call....... 1495
  provisions in case of absence of, or impossibility of immediately communicating with............... 1496
  assignment of volunteers, in discretion of 1502
  attachment of companies by......1508, 1509
  officers discharged by............ 1514
  vacancies, filling.................1515, 1516
  commission of officer called into active service, continuance of............. 1514
  conduct of troops, where provided for. 1513
  draft of enrolled militia where number of volunteers insufficient.... 1513
  how made by brigadier general........ 1513
  major general should superintend..... 1504
  substitute for brigadier general in..... 1504
  attaching companies 1508
  disposition of drafted men 1509
MILITIA—Continued.
  substitutes 1510-1512
  enrolled militia, mustering into national guard etc.... .... . 1508, 1509
  generals who may call out troops in place of Governor.......... 1496
  Governor, see Commander-in-Chief,
  substitute for, in calling out militia.... 1496
  disapproving call, may disband troops. 1496
  insurrection is ground for.... 1495
  marshal, United States, in Montana, upon call of 1495
  officer receiving order for duty of..1498, 1499
  pay of officers and privates in active service.............. 1519
  persons drafted, how summoned 1505
  election of company officers by... ... 1506
  President of the United States on call or requisition of 1495
  rebellion is ground for 1495
  rendezvous, officer must attend at .1498, 1499
  names of volunteers taken by officer at. 1499
  must be described in summons for draft...... 1505
  proceedings when sufficient attendance of drafted men at 1506
  neglect or refusal to, penalty for 1507
  requisition for, by whom may be made 1495
  service of copy on general, when 1496
  resistance to execution of laws of State is ground for 1495
  rules and regulations governing militia in active service........... 1518
  sheriff, upon call of 1495
  substitute may be furnished. 1510
  offer and acceptance of. 1511
  effect of acceptance of................ 1512
  vacancies of officers in actual service, by whom filled..... 1515
  how filled....... .. .. 1516, 1517
  volunteers, names of, taken by officer at rendezvous........... 1499
  election of officers of................. 1500
  sufficient notice of such election...... 1501
  may be assigned to fill up companies already in active service. . . . 1502
  if number insufficient, draft of enrolled militia 1503
Adjutant-General............... . 1480-1489
  bond, official............. 1483
  duties of. 1486
  cadets, to issue arms and equipments to.... 1456
  military instructor of to report to...... 1456
Courts of Inquiry,
  order, who may..... 1535
  rules governing................ 1536
Courts-Martial,
  adjournment of....................... 1526
  appointment of, what officers may make 1525
  authority of.......................1525-1539
Commander-in-Chief,
  when may appoint....... 1525
  revision of sentence of by.... 1532
  commissioned officer, in time of peace, when tried before.................... 1537
  extent of sentence against............ 1537
  refusing to pay over official moneys, liability to trial and punishment by.. 1538
Courts of Inquiry,
  see Courts of Inquiry........... . . 1535
  day for convening, by whom fixed..... 1526
  delinquents. service of summons on... 1528
  return of such service, and penalties concerning............................ 1528
  fines or penalties imposed by, collection of 1533
  list of, and warrant for levy and collection of..... 1533
  enumeration of, for various offenses... 1539
  oath of officer, establishing.......... 1527
  organization of....................... 1525
  person not liable to military duty, when cannot bring action against member, etc., of.......................... ... 1534
  power of............................. 1529
  as to witnesses............. 1528
  of punishment............. 1531
  proceedings and sentence of, approval or disapproval of, and notice of same 1530
  revision of........................ ... 1532

MILITIA—Continued.
revision of proceedings and sentence of 1532
rules and regulations governing....... 1525
sentence of, approval or disapproval of 1530-1532
remission or mitigation of....... .. . 1532
suspension of, by commander-in-chief.............................. 1532
session, length of.... 1526
sheriff or constable must serve orders and process of.......... ....1528, 1529
vacancy in by whom filled........... 1526
witnesses powers concerning......... 1531
Enrolled Militia.
assessor to prepare, etc., military roll 1352
penalty for failure..................... 1534
board of equalization, clerk to make and deliver duplicate of military roll. 1355
to correct military roll 1353
enrollment of persons subject to military duty, assessor to prepare and deliver 1352
penalty for neglect or refusal.......... 1354
military duty, who subject to 1350
who are exempt from, and from enrollment 1351
roll, military, assessor to prepare, swear to and deliver to Clerk of county commissioners........ 1352
board of equalization to correct....... 1353
duplicate of such roll delivered by clerk of county commissioners to governor. 1355
National Guard See National Guard
Mineral Land Commissioner.
appointment and term...............202-305
Governor may remove................ 305
duties..... 306
MINES AND MINING.
See inspector of mines 370-380
school of mines 970, 971
regulation of coal mines............ ... 2245
how taxed net proceeds 2470-2478
location of mining claims............. 2370
notice what to contain 2370
discovery shaft, boundaries, how made and of what to consist.............. 2371
declaratory statement, when and where filed and what to contain........... 2372
placer locations heretofore made, effect of...... 2373
annual work, affidavit, what to contain and record........................ 2374
relocation, how made...... 2375
official survey, certificate thereof and made part of declaratory statement.. 2376
Right of Way,
owners of mines have right of way.... 2380
right of way for road or ditch......... 2381
proceedings to obtain................. 2382
proceedings before court.............. 2383
comissioners to be appointed......... 2384
damages to be assessed by............ 2385
report of...... 2386
payment of damages assessed......... 2387
appeal, how taken 2388
trial on 2389
costs, how paid........................ 2390
final appeal may be taken to supreme court................................ 2391
Safety Apparatus,
must be used in mines...... 2395
penalties..... 2396
MOBS OR RIOTS.
liabilities of municipal corporations for injury to property by............ 3566
MONEY,
question of borrowing to be submitted to electors.... 2885-2889
money secured by mortgage, how assessed............................... 2417
MONEY OF ACCOUNT,
accounts, public, must be kept in..... 2110
comprises what 2110
court proceedings must conform to.... 2110
judgments and executions, how computed and stated.................... 2112
reduction of accounts and documents to 2111
MONTH,
meaning of in this Code, 17, subd.... 4
MORTGAGE,
money, secured by, how assessed 2417
MUNICIPAL AUTHORITIES,
See Cities and Towns.
MUNICIPAL CORPORATIONS,
see cities and towns................3300-3654
MUSTER
and muster rolls, See under National Guard
NATIONAL GUARD.
absence or removal of commissioned officer, deemed resignation.......... 1389
arms and military property..... 1417
bills must be itemized......... 1416
bills must be approved by board of examiners and not paid unless authorized by law....... 1416
duty of commanding officer as to arms 1418
banner, see colors.................... .. 1410
board, military and duties 1390
by-laws 1404, 1452
colors................ 1410
foreign device banner or flag prohibited...... 1410
Commander-in-chief of, Governor is.. 1372
staff of........ 1373
may disband any portion of........ . 1393
rules, regulations.... ....1404, 1452
commission, new, not issued on re-election of officer... 1395
but on loss or destruction of old....... 1395
resignation of.................... . 1396
companies in time of peace, number of 1374
maximum number in...... 1384
device see colors...... 1410
disbanding of any portion of, by commander-in-chief........ 1393
discharges, who may not grant.1389, 1392, 1398
requisites of........ 1392
dishonorable, effect of 1402
of member of company for removal .. 1439
announcement of 1439
disobedience of orders, penalty for 1399
election of company officers.... 1432
enlistment term of............ . 1391
exemptions and privileges for faithful service and conduct.... 1406
list of persons entitled to, given to assessor...... 1407
fines and penalties, collection by action 1405
evidence therefor........ 1405
flag, see colors......................... 1410
force, detail of.......... 1383
general provisions concerning.. ..1370 1419
Governor, as commander-in-chief of... 1372
staff of.... 1373
to locate companies............ 1375
may make change in organization..... 1376
may increase force...................... 1377
may increase number of officers....... 1382
may discharge when.................... 1389
may disband 1393
inspection, annual and reports. .. 1412-1413
duty of State board of examiners on receipt of report 1414
instruction, Federal system of, followed 1379-1381
insulting language or conduct penalty for......... 1401
line officers of 1377
location..................... 1375
member, discharge of 1392
military board, who compose........... 1390
duties.................... 1390
military property, how used........... 1417
militia organized uniform, of State, known as........ 1371
militia enrolled may volunteer......... 1370
misconduct while under military orders, penalty for........ 1399
insulting or abusive words or behavior, penalty for............ 1399
muster of, annual...................... 1412
number and rank of officers 1381
non attendance upon drills, etc., collection of fines and penalties for..... 1405
oath of officers and members of....... 1388
no fee for administering or certifying any................................ 1408
officers of.............................. 1373
staff officers, of the line.............1381, 1394
staff, constructive resignation of commission as line officers by becoming. 1387
rank of, term of.............. ...1391, 1397
uniform of....... 1378

NATIONAL GUARD—Continued.
- neglecting to provide.......... 1451
- resignations of 1396
- vacancies in positions of, how filled... 1397
- election of company.... 1397
- resignations of commissioned deemed from removal or absence........... 1389
- discharge of.......................... 1389
- take rank, how........................ 1394
- on re-election not to be commissioned. 1395
- certificate of election........ 1395
- organization of companies into regiments, battalions and batteries...... 1380
- orders, publication of 1419
- protection of.... 1403
- must conform to United States army.. 1379
- parade ground, penalty for entering without authority. 1400
- parade, annual............... 1412
- selling liquors on 1400
- pay none except in active service.... . 1386
- pensions........ 1411
- resignation of officers 1389
- rules and regulations for government of 1409
- same with forms and precedents, prescribed by commander-in chief revision, promulgation and compilation of 1409
- rules of government and by-laws, adoption and enforcement of....... . 1409
- systems of instruction, see instruction................ . ...1379, 1381
- uniform of...... 1378
- service, term of........................ 1391
- vacancies in elective offices of........... 1397

Arms—Distribution of. See Arms and Equipments, Under Companies.

Battalions—See Regiments and Battalions.

Brigades—See Divisons and Brigades.

Companies,
- acceptance of call for company, proceedings on 1431
- allowance to....................... 1414
- application for leave to organize 1430
- arms, requisition for.... 1440
- proceedings on approval of requisition 1441
- officer making requisition bond of.... 1442
- issuance of if bonds satisfactory, and receipts given 1443
- disposition of receipts for............. 1444
- examination of, authorized............ 1445
- repair of damages to........... . .. 1446
- assemblage, annual, failure of company to report, disbanding for....... 1452
- book and record to be kept............ 1455
- cadet........... 1456
- commissions, commanders-in-chief may refuse...... 1434
- companies, when code takes effect..... 1438
- commander-in-chief may disband..... 1393
- commanders of, nominate non-commisioned officers.................... 1435
- of unassigned companies, reports of... 1453
- discharge of member of, for removal beyond county 1439
- announcement of 1439
- forwarding to headquarters copies of orders announcing...... 1439
- disbanding of, money of company to be paid into State Treasury.... 1415
- disbanded, when 1453
- drills, effect of failure to report at annual assemblage and encampment for....................... 1452
- drills of 1452
- examination of elected officers.....1447-1448
- listing of 1434
- maximum number in.................. 1384
- member of two companies at same time, no person to be..................... 1439
- effect of removal from county.......... 1439
- membership, applications for, how treated............................ 1449

Military Academy,
- cadets 1456
- muster rolls of.... 1412
- list attached to, and transmission of copies of........ 1413
- of field and staff officers, when also transmitted... 1414
- name of......................... 1436
- letter or number, if attached....... ... 1436

NATIONAL GUARD—Continued.
- officers of, election of......... ......, 1431
- term of commissioned 1391
- commissions to, when issued by Governor...... 1434
- non-commissioned, nomination of...., 1435
- non-commissioned, restrictions on removal, etc., of.... 1435
- examination of elected............1447, 1448
- organization of, required............ 1380
- application for................ ...., 1430
- approval and presentation for such call 1430
- appointment of person to further..... 1431
- appointee to open books for applicants........................ 1431
- notice of meeting for............ .. ., 1431
- duties of appointee....... 1432
- appointee to regulate meeting, superintend election of commissioned officers, and send certified account of entire proceedings.............. 1432
- transmission of such account to commander-in-chief 1433
- listing of company and commissioning of officers.................... , 1434
- property, military restrictions on use of 1430
- regiment of battalion, how many constitute............................ 1465
- reports of commanders of unassigned companies.......................1453-1454
- roll, company......................... 1437
- term of service in 1391
- drills 1452

Parades and Drills,
- drills, absence from, penalty for...1452-1411
- parades, number time and mode of , 1411

Regiments and Battalions
- battalion, of infantry, what constitutes 1465
- field officers of.... 1469
- expenses of regimental headquarters........ 1470-1467
- field officers, of regiment or battalion are.................................. 1460
- election of.... 1466
- returns of election 1467
- issuance of commission.... 1468
- regiment, of infantry, what constitutes............................. 1465
- field officers of 1467-1469

Staff officers,
- adjutant-general, duties of... 1450
- bond and salary 1450
- report of.. 1451
- inspector-general, duties of...... . 1453
- ordnance officer's duties .. . 1454
- salary and bond 1455
- other officers, duties of 1456

NATURALIZATION LAWS.

See at Beginning of Volume.

NAVIGABLE STREAMS AND WATERS
- see public waters..................... 1675

NAVIGATION,
- steamers meeting.................. ... 1680
- steamers overtaking.............. ... 1681
- steamers to carry signals at night..... 1682
- penalties, what amount 1683
- vessels at anchor to show lights 1684
- neglect no recovery.......... 1685
- vessels, what boats must carry 1686
- penalties, what amount................ 1687
- racing, penalty for.......... 1688
- penalties, how recovered............. 1689

NEUTER GENDER,
- included in masculine in words used in this Code...... 15

NORMAL SCHOOL,
- see state normal school 1010, 1011

NOTARIES PUBLIC,
- acknowledgments, duties concerning 459
- affidavits to take 459
- certificates and certified copies of records and papers of predecessor, to furnish 459
- depositions, duties concerning, and generally.... 459
- duties................................ 459
- elector of county for which appointed must be at time of appointment 457
- eligible to appointment, who is....... 457
- no state, county or township officer or clerk or deputy to be appointed..... 459
- see salaries and fees of officers....... 79

NOTARIES PUBLIC—Continued.
Governor may appoint.............. ... 486
Governor may revoke appointment. · 498
misconduct or neglect official, liability of, and of sureities on official bond of 495
notarial certificate of protest, as evidence..... · 490
oaths and affirmations................. 489
official bond............ 493
approval, filing and recording of 493
certificate of qualification sent to Secretary of State...... 494
liability on 495
official oath, taking 494
signed copy sent with certificate of qualification to Secretary of State.... 494
protest, duties concerning. 490
further notorial certificate....... . 490
qualifications for appointment right to vote, and continued residence as.... 487
records to be kept by.... 489
certified copy of, to furnish.... 489
to furnish certificates and certified copies of records and papers of predecessor............................ 497
residence continued. requisite in county for which appointment made 487
seals of......... 489
when not necessary to use seal........ 489
successor of, delivery of records and papers to, through county clerk. .. 491
duty of county clerk................. 492
certificate of clerk to official character. 496
fees for 497
term of office of....................... 488
NUMBER,
construction of words of, used in this Code.................................. 16
OATH,
includes affirmation or declaration, in this Code 16
National Guard, on joining or re-enlistment............ 1388
office of, taken by members of Legislative Assembly, see under Legislative Assembly...................... 107
Generally See Oath of Office, See Names of Various Officers.
OATH OF OFFICE,
administration of, by whom may be 3
made.... 55
deputies, clerks, and subordinate officers, of, time and mode of taking and filing by......................... 555
filed. where, by various classes of officers......... 554
form of..... 550-555
all officers, mode of taking and extry of 550
Legislative Assembly, members of, when may take.......... 551
provisions concerning................. 550
required before entrance on duties of office................................. 550
time for taking, subscribing and filing. 552
of city and town officers....... ...3351, 3336
OATHS,
administration of, by every executive and judicial officer, permitted........ 637
by member orc lerk of election board.. 739
by school officer....................... 1320
no compensation for, in connection with National Guard................. 1408
by member or clerk of equalization board.............................. 2508
by county clerk to treasurer... 2604
by commissioners.................. ... 2839
by county officers...................... 2935
certify, every executive and judicial officer may.................. 637
See Administration of
witnesses, to, members of legislative committee may administer.......... 107
See Salaries and Fees of Officers Legislative Assembly.
OBSTRUCTIONS,
Highways to, See Under Highways and Roads.
OFFICERS,
Accounts of, affidavit required before allowance of.................. 562
suspension of settlement or payment of 564
itemized account of required.......... 642

OFFICERS—Continued.
affidavit required of, by auditing officer 562
as to fees.................... 3143
appointment of, by Governor, unless otherwise prescribed 532
certain, by Governor with consent of senate 212
appointment and duration of terms of.532-536
assistants of, appointed by superior body or officer 533
attachments, issuing of not to be made public by.............................. 641
auditing or allowing accounts of, prerequisite to................ . .. 562
Bonds of, See Official Bonds.
liability on.... 3147
books and papers to be delivered to..628-630
order for delivery to, how enforced.... 630
business, must complete of office...... 3159
City,
see under cities and towns.........3335-3366
civil executive, as distinguished from military............ 196
number and designation of............ 198
mode of selection and term of......... 200
city and towns, qualification of........ 3346
not to be interested in contracts....... 3395
when term begins. 3396
classes, of public......................... 80
classification of executive............... 196
of Senators, See Legislative Assembly.
commissions of Governor to grant to certain................................ 542
issuance and execution of. 542-544
constable, reports of.................... 2944
examination and indorsement of...... 2955
contesting election of State.....145, 146, 536
notification of such contest, to prevent paying salary 568
contract, must not be interested in 558
avoided, it officer interested.......... 560
conviction of 3165
County,
See under County.
reports of 2944
examination and indorsement of....... 2955
how appointed................ 545
qualifications of...................... 2920
Courts,
ministerial and others connected with..................... 460-466
see commissioners of deeds........... 505
Notaries Public....................... 486
debtors for payment of poll-tax, as . . 2651
Deputies of,
see deputies........530, 534, 3159, 2930, 3139
deputy of another county officer, prohibited to be.... 522
disbursing, duties of, as to officers violating trust..... 563-564
disqualifications of... 521-520-523
minority as one of............ 520
citizenship as one of 520
deputy, against acting as 522
district, qualifications of.............. 2991
Election, See Under Elections
evidences of indebtedness, restrictions on dealing in, by certain 561
not to be paid, if so dealt in............ 563
executive................... ....196, 442
classification of......... 196
military 197
seals of....... 636
See Names of Various Officers.
ex-officio signatures when acting...... 640
Fees of, See Salaries and Fees Under Officers.
general provisions relating to different classes of....... 520-642
hold over until successor has qualified. 536
interested in contracts made by, in official capacity, prohibition against being.................................. 558
avoidance of such contract............ 560
Judicial, See Judicial Officers.
Justice of the Peace,
reports of............................ 2944
endorsement of....................... 2955
See Justice of the Peace.
Legislative, See Legislative Assembly.
mileage, but one when................ 3155

OFFICERS—Continued.
- military, designaton and duties of, where stated....... 197
  - See Militia—National Guard.
- Ministerial, and Others Connected With Courts, See Courts.
- nominations of, how made by Governor to senate......................... 540
- proceedings, where senate concurs..... 541
  - See Legislative Assembly Under Constitution of Montana.
- Oath of,
  - See Oath of Office and Oath.
- Oaths,
  - See Separate Head.
- Office,
  - to keep open how long, daily.......... 639
  - records in open to public inspection... 641
  - must complete business of............. 3159
  - peace.................,...........16, sub. 8
- Penalties,
  - for neglect or misconduct of, liability on official bonds for........ 2934
  - for making false report........ .. 3162
  - for failure to report.................. . 2948
  - for not completing business of office... 3159
  - for false oath.... 3160
  - for failure to pay over fees..... 3161
- Political Code, effect of on tenure of incumbents under repealed acts 6.
  - possession of books and papers right to.........................,. 628
  - proceedings to obtain..... 629
  - prohibitions, applicable to certain...554-558
  - prosecutions for infringing certain prohibitions............... 564
  - public, seal of................. 13
  - purchaser at sale made in official capacity, certain officers not to be...... . 559
  - avoidance of such transactions........ 560
  - qualifications of,...... 526
  - of county officers 2920
  - of township and district 2921
  - of city and town.......... .. . 3346
  - receipt, itemized of,................... 3150
  - records in office of, how far open to public inspection................... 641
  - reports of 2944
  - public.................... 187-191
  - penalty for making false.............. 3162
  - residence of, restrictions upon. . ..525-529
  - certain officers, to reside and keep their offices at seat of government......... 525
  - restrictions upon absence of such officers from State.................. 526
  - on residence of judicial officers, where contained............................ 527
  - on county officers, where contained.... 528
  - on district and township officers.....529, 561
  - restrictions upon residence of.......225-529
  - salaries and fees of................3130-3203
- Salaries of,
  - withheld where title is contested....567-568
  - of county officers............................ 3133
  - fees to be paid to 3130-3203
  - of city or town.....................3357-3364
  - salaries and fees of........ 3133
  - itemized receipt...... ,, ... 3150
  - deputies, number and compensation... 3139
  - fees collected and paid into county treasury............................ 3142
  - monthly payment of fees 3142
  - statement of fees and affidavit......... 3143
  - fee book.......................... 3143
  - salary not paid until statement of fees filed.... 3143
  - fees must be paid in advance 3147
  - failure to perform service when fees tendered............................ 3147
  - liability on official bond......... 3147
  - fees not charged to state or county or public officer...... 3148
  - fees must deliver to person paying statement of amount................ 3150
  - fees statement to be kept posted...... 3157
  - penalty for failure to keep statement posted...................................... 3151
  - fees, must receive no other............ 3152
  - fees for publication, may demand in advance........ 3153
  - mileage, but one when............... 3155
  - office, must complete business of...... 3159

OFFICERS—Continued.
- penalties for failure to complete business...... 3159
  - for false oath.... 3160
  - for failure to pay over fees............ 3161
  - for making false reports................ 3162
- vacant, when office declared........... 3165
- scrip, etc., certain officers not to deal in..................................... 561
- seal of public, defined................. 13
  - of executive..... 535-536
- signature of when acting ex-officio... 640
- Ptate, and their appointees, to produce, sworn itemized accounts of expenditures.......... 249
- appointed, in general, by superior officer or body..................... ... 533
- number of, when in discretion of appointing power........... 534
- mode of appointment of............... 545
- oath of office by 555
- bonds of.................. 610
- successor, incumbency lasts until qualification of..... 536
- enforcing delivery of books and papers of predecessor to..................628-630
- subpoenas, serving, when not entitled to fees prepaid............ 2899
- Supreme Court
  - officers connected with, salaries....... 779
- term of, when at pleasure of appointing power................. 535
  - of county................ 2920
  - of city or town......... .. ..3334, 3345
  - of township or district.......... . .. 2921
  - when term begins......... 3352
- Township,
  - mode of election, where fixed 514
  - bonds of 515
  - qualifications of........................ 2927
  - enumeration of.... 2923
  - election and term of. 2925
  - special acts concerning 2925
  - deputies of............................ 2928
  - vacancies among............. 2931
- Vacancies in Positions,
  - see vacancies.............. ..617-624, 3165
- Vendor at Official Purchase,
  - certain officers cannot be............. 559
  - avoidance of such purchases 560
  - abolition of by repeal of Act not revived by Codes extinguishes........ 7
  - civil, who incapable of holding........ 520
  - twenty-one years lowest age for holding...... 520
  - citizenship necessary for holding...... 520
  - consolidation of 2924
  - county, eligibility to....... 2920
  - vacancies in 2931
  - district, eligibility to.. 2921
  - disqualifications for.. 520
  - duration of, when not fixed by law, is at pleasure of appointing power..... 535
  - eligibility to, of electors..............49, 50
  - to county........... 2920
  - to district or township.................. 2921
  - hours to be kept open......... 639
  - Political Code, how affects certain.... 6, 7
  - tenure of when held under Acts repealed by this Code...... 6
  - when not fixed by law, is at pleasure of appointing power.................. 535
  - term, when not fixed by law......... 535
  - title to, contested, effect on salary...567-568
  - township, eligibility to................. 2921
  - vacancies in 2931
    - Vacancies in, See Vacancies.
  - various, disqualifications for, where contained................... 531

OFFICIAL BALLOTS,
- see elections 795

OFFICIAL BONDS,
- action on.......... 608-609
- additional, where sureties on original bond have become insufficient, may be required as alternative of vacating office...... 589
- form and force of......... 590
- does not discharge or affect original bond..................................... 591
- liability of officers and sureties on both bonds.............. 592

OFFICIAL BONDS—Continued.
separate actions may be brought on each 592
execution, where separate judgments recovered on each 593
contributions among sureties on either. 594
Administrators,
bonds of 606
actions to compel specific performance 612
Approval of,
approval must be indorsed on bond... 577
for State officers 573
for county and township officers 575
must precede filing 578
insufficiency of sureties after 589
of additional bond 590
of supplemental bond 601-604
assignees, bonds of obligee and beneficiary 586
condition of 579, 580, 581
liability for breaches of 585
copies of, certified, given by officer filing, on payment of certain fees... 582
county clerk, of filed and preserved in office of county rteasurer 611
county officers, of, various amounts of 2941
amount fixed by board of county commissioners, when 2942
approval, recording and filing of 575
county and township officers, of, approval, recording and filing. 575
See Also County Clerk.
court, bonds of officers of 607
custody of 575
defects in, do not render void 588
but may be suggested in action on 588
and amount justly due recoverable ... 588
deputy clerk, or subordinate officer, bond may be required of, by appointing power 610
discharge of sureties on 595, 596
by officers giving new bond 595
does not affect liability of remaining sureties 602
disqualification of surety, supplemental bond given on 603
duties covered by conditions of 579
additional duties imposed by subsequent law, included 579, 585
and bond obligatory for faithful discharge of 585
executors, applicability of provisions to bond of 606
and administrators, bond 606
filing, place and time of, in general... 572
when for State officers 573
when for secretary of state 574
not until bond approved 578
of additional bond 590
of new bond 595
of surety's statement asking for release 598
of supplemental bond 601, 603, 605
force and obligation of 584, 585, 586, 591
of additional bond given where sureties on original bond insufficient 590
guardians, provisions as to official bonds applicable to bond of 606
incompetency of surety, necessitates supplemental bond 601
does not affect liability of remaining sureties 602
injured or aggrieved person is beneficiary of, and may enforce by suit in his own name 586
insolvency of part of sureties on. 601
of surety, necessitates supplemental bond 601
joint and several 583
judgment on, may be successively obtained until penalty exhausted 587
lands, where party sued on, possesses or has interest in, prosecutor may file affidavit to that effect 608
clerk, receiving, to send certificate to county clerk 608
clerk, to treat it as lis pendens 609
judgment is lien upon any real estate of defendant 609
liability on, for breaches of conditions 579, 584
by principal or assistants 579

OFFICIAL BONDS—Continued.
by incumbent, for what period 584
to whom 586
exoneration of sureties from further, on officer giving new bond 595
relief of sureties from, how effected by them 596-598
for non-performance or mal-performance of official duty 2934
lis pendens against parties sued on .. 608
new, for new given by officer where some of sureties on original bond have been discharged at their instance 595
preservation of, by officer filing 582
principal on, condition provides for performance of duties by 579
bond to be signed by, and by sureties 579
liability of, and of sureties on 579-581, 584, 585
prosecution for benefit of parties interested, court may order on bonds of trustees, etc., in an action or proceeding 606
of official bond, lis pendens on. 607-608
Real Estate, See Lands.
receivers, bonds of 607
record of 576
index of same 3009
recording of, by secretary of state 237
for State officers 573
for county and township officers 575
book for 576
by county clerk 3008
release of sureties on, how affected at their own instance 598-600
statement asking relief from future liability 598
service of copy on officer 599
ten days thereafter, order of release made 600
release of a surety, does not affect liabiilty of remaining sureties 602
does not attach until order made.. ... 605
removal of surety, necessitates supplemental bond 603
Secretary of State, of, where filed 574
signature of 579
State of Montana must be made payable to 583
in force and obligatory to and for 586
bonds of trustees, etc., in an action or proceeding must be in name of and payable to 607
specific performance of contract. 612
State officers, of, approval, filing and recording 573
suggestion in complaint, of defect in bond 588
suit on, any person injured or aggrieved by officer's breach, may bring 589
may be brought successively until penalty exhausted 590
supplemental, given when sureties withdraw or become insolvent or incompetent 601
requisites of, where surety gives notice of withdrawal, or is removed, or becomes incompetent or disqualified... 603
when not required 604
publication of notice of giving 604
liability of sureties on former bond continues on approval and filing of....602-604
sureties until, justification of 580
for portions of penal sum 581
action against such fractional sureties. 581
judgment against same 581
contribution among same 581
insufficiency of, proceedings to vacate office for 589
Discharge of, See Discharge of Sureties.

Insolvency of Part of, See That Head.

withdrawal, incompetency, removal, etc., see supplemental bond 576
not released from liabilities existing before release 605
time for filing 572
trustees, bonds of, obligee and beneficiary 607

OFFICIAL BONDS—Continued.
- vacancy, person appointed to fill must give bond corresponding to original. 596
- occurs in office, on release of sureties, unless ample surety previously given 600
- vacating office, and proceedings against defaulting officer, where sureties become insufficient.. ... 589
- order, on release of sureties, unless ample security previously given..... 600
- withdrawal of surety, necessitates supplemental bond.................. . 601
- does not alter liability of remaining sureties............................ 602
- See Under Names of Various Officers.
- of city or town officers.......3351, 3354, 3355
- provisions apply to bonds or undertakings of receivers, executors, administrators and guardians.......... 606

ORGANIZATION,
- of cities and towns........ 3320-3327

OPERATION,
- of statutes 175-182

OPTION,
- local...............................2125, 2134

ORDNANCE OFFICER,
- see militia........... ......1373, 1484 1485

ORDINANCE,
- see under cities and towns.........3394 3395

OVERSEERS, ROAD,
- See Road Overseers.

PAGES
- see under legislative assembly . ..100. 101

PAWNBROKER AND JUNK DEALERS,
- interest pawnbroker may receive...... 2208
- search warrant may issue............. 2209
- service of.........................2210, 2211
- bond.......................... 2212
- register, must keep................ 2213
- penalties............................. 2214

PATENTS,
- see under lands, State........... 2320 2364

PEACE OFFICER,
- signification of term in this Code...... 16

PENDING ACTIONS OR PROCEEDINGS,
- not affected by this Code 8
- but must substantially conform to its requirements....... 8

PEOPLE,
- political body, as, consists of whom... 40
- State, of, sovereignty of State, resides in......... 25
- original and ultimate right to all property within State, abides in........ 33
- property without owner or inheritor belongs to............ 34

PER DIEM,
- See Under Legislative Assembly.

PERSON,
- includes corporation in this Code...... 16

PERSONS,
- general rights of the State over........ 31
- under jurisdiction and entitled to protection of State, while within it......45-48
- persons in State not citizens.......... 48

PERSONAL PROPERTY,
- meaning of words in this Code........ 16
- meaning of, in regard to taxation..... 2407

PHRASES,
- construction of...... 16
- technical, how construed.. 16
- plats of cities and towns and additions, how made and proceedings......3530-3543

PLURAL NUMBER,
- includes singular, in this Code......... 16

PLURALITY,
- of votes elects 660

POLICE COURTS,
- See Under Cities.

POLICE,
- general, of the State...............1900-2396

POLICE JUDGE,
- See Under Cities and Towns.
- salary of.......................... 3358

POLICE,
- powers of State.......... 1900-2226

POLITICAL CODE,
- accrued right, how affected by........ 8
- act to establish........................ 1
- common law rule inapplicable to...... 4
- construction of, liberal 4

POLITICAL CODE—Continued.
- as continuation of existing enactments. 5
- of words, phrases and terms under....15, 16
- effect, when takes........ 2
- on pending actions or proceedings and accrued rights........................ 8
- on period of limitation which has begun to run...................... . 9
- law of this State, establishes 4
- limitation, how affects period of....... 9
- pending actions or proceedings, how affected by.......................... 8
- private statute not expressly repealed, not affected by 18
- repeal or abrogation by, extent of..... 18
- retroactive, not 3
- revival of repealed law, none by....... 18
- terms used in, signification of 16
- this act designated as the... 19
- how cited 19

POLL BOOK,
- see under elections.......... 756-759

POLLS,
- see under elections 750-752

POLL TAXES,
- for cities and towns 3430-3433
- See Under Revenue.

POOR,
- board of county commissioners have control of.......................... . 2140
- relatives must care for poor, penalty for neglect 2141
- intemperate person not entitled to support.......... 2142
- when person may receive relief from county.... 2143
- order to publish notice for proposals to care for the poor................... 2144
- bids and contracts..................... 2145
- medical attendance, contract for...... 2146
- board may reject bids.... 2147
- contractor, bond of..................... 2148
- duty of physician 2148
- person falling sick to be cared for ... 2149
- application of person seeking relief .. 2150
- persons belonging to another county to be removed 2151
- non-residents furnished temporary relief 2152
- poll tax poor fund.... 3066
- poor farm and work house..... 2153
- surplus money in poor fund.......... 2154
- see county commissioners 2850
- see poor farm.. 2153

PRECINCTS ELECTION,
- See Under Elections.
- see county commissioners............ 2850
- preliminary provisions............... 3-19

PRESENT TENSE
- includes future, where used in this Code................................ 16

PRESIDENTIAL ELECTORS,
- See Under Elections.

PRESIDENT,
- of senate............................. 100
- pro tem.................. 100

POWERS AND DUTIES,
- see under legislative assembly.......107-116
- per diem and mileage... 121

PREVENTION OF CRUELTY TO ANIMALS,
- See Animals.

PRIMARY ELECTIONS,
- See Under Elections.

PRINTING, PUBLIC,
- See Board of Examiners, Board of County Commissioners.

PRISON,
- State See State Prison.

PRIVATE SECRETARY,
- Of Governor, See Under Governor.

PROCEEDINGS,
- pending how affected by Code....... 8

PROCESS,
- definition of... ....16, 2980
- issuance of, by clerk district court.... 350
- name of State, of issue in.. 25
- service of, when issued by court-martial...............................1528, 1529
- sheriff's functions in........... .. ..2981-2988, 2993, 2995, 2996
- by coroner.... 3085
- by elisor.............................. 3000

PROCESS—Continued.
by constables.......... 3121
State right of, as to service of....29-31, 419
style of.......... 25
PROCLAMATIONS, ELECTION, See Under Elections.
PROPERTY,
meaning of, as used in Code.......... 16
as to taxation.......... 2401
rights of State over, general..........33, 36
State may acquire by taxation.......... 35
real, includes what.......... 16
personal, includes what.......... 16
PUBLIC ADMINISTRATOR
administrator, public, must take charge of estates when.......... 3090
administrator, public, account, order to 3099
administrator, public, actions by.......... 3096
administrator, public, bond.......... 3090
administrator, public duty on appointment of another.......... 3094
administrator, public, embezzlement..........3097, 3098
administrator, public, failure to pay over.......... 3104
administrator, public, fees of officers to pay.......... 3105
administrator, public, generally.......... 3108
administrator, public, interest, not to have in payments.......... 3102
administrator, public, inventory.......... 3093
administrator, public, letters to.......... 3091
administrator, public, oath of.......... 3090
administrator, public, oaths, power to administer.......... 3106
administrator, public, property to be handed to county treasurer.......... 3101
administrator, public, return every six months.......... 3100
administrator, public, settlement with county clerk monthly.......... 3103
administrator, public, stranger dying, notice of.......... 3092
administrator public, unclaimed estate 3103
administrator, public, waste, civil officers to notify of.......... 3095
accounts of.......... 3107
must keep register.......... 3109
what to contain.......... 3109
fees of.......... 3177
PUBLIC INSTITUTIONS,
see superintendent of public instruction..........1030-1031
see insane asylum..........1550-1578
see deaf, dumb and blind..........1621-1027
State library..........1635-1651
other State institutions..........1660, 1661
PUBLIC LAND OF THE STATE,
see lands State..........2320-2364
PUBLIC REPORTS,
when to be made.......... 187
printing of.......... 188
number printed.......... 189
distribution of.......... 190
deed, tax, time of making.......... 2589
recitals in..........2589, 2599
fee for making..........2582
evidence, primary of what.......... 2593
conclusive, of what.......... 2594
conveyed by.......... 2590
to State, of State lands sold for delinquent taxes, recording, filing and effect of.......... 2594
delinquent list, delivery of.......... 2563
contents of.......... 2564
comparison and addition of.......... 2565
use by county clerk as basis of settlement with county treasurer.......... 2565
charge of amount thereof to county treasurer.......... 2566
delivery of to county treasurer.......... 2566
publication of, and contents thereof... 2568
expense of publication.......... 2568
notice of sale appended to and published with.......... 2569
mode of publication.......... 2570
posting of.......... 2570
time and place of sale, designated in publication of.......... 2571
republishing for informality.......... 2686
delinquent taxes, suits for.......... 2567

PUBLIC REPORTS—Continued.
statement of total amount of transmitted to State auditor.......... 2567
interest on.......... 2607
over three hundreds dollars action to collect.......... 2696
complaint in such action, form of.......... 2697
proceedings thereon.......... 2697
delinquency, time of.......... 2551
time of to be shown on blank statement.......... 2420
additional percentage for.......... 2501
evidence, tax deed and its recitals.2592, 2593
assessments, books, and lists of unpaid taxes.......... 2595
Executor, See Administrator.
irregularities discovered before sale of land for taxes effect of.......... 2616
misnomer or mistake as to ownership, not to invalidate sale of land for taxes.......... 2611
notice to pay taxes, time of publication of.......... 2555
contents of.......... 2555
publication or posting of.......... 2556
payment of taxes, entry of.......... 2557
receipt on.......... 2558
personal property, collection of taxes by seizure and sale of.......... 2596
conduct and extent of sale.......... 2597
notice of sale.......... 2598
treasurer's charge and mileage for seizure and selling.......... 2599
vesting title in purchaser at tax sale of 2600
disposition of excess realized at tax sale of.......... 2601
disposition of unsold portion of.......... 2602
not a lien upon sufficient real property, time of collection of by seizure and sale..........2625-2626
provision applicable to such seizure and sale.......... 2627
rate governing amount of such collection.......... 2628
excess of deficiencies in collection of such taxes..........2629, 2630
settlements for such taxes.......... 2031
entries concerning such taxes.....2632, 2633
protest against sale for tax claimed to be invalid in part required.......... 2615
effect of.......... 2616
publication of delinquent list, and notice of sale..........2568-2571
copy of affidavit of.......... 2573
affidavit as evidence of facts stated therein.......... 2573
redemption, by whom made.......... 2584
time for.......... 2584
mode of making.......... 2585
report of redemption money.......... 2586
filing and entry on receipt of certificate of sale by county clerk.......... 2587
marking and entering redemption.......... 2588
refunding of taxes, erroneously or illegally collected.......... 2608
repetition of assessment in same year, proceedings on.......... 2609
Sale, tax, publication of notice of..2569-2571
time and place of.......... 2572
conduct of.......... 2575
postponement of.......... 2576
time for completion of.......... 2576
of least quantity or interest.......... 2576
to county.......... 2577
resale, when.......... 2578
penalty against holder refusing to pay. 2578
irregularities, proceedings on.......... 2616
of Personal Property, See under Personal Property.
settlement of treasurer with county clerk for.......... 2560
county property sold to, at tax sale, assessment of.......... 2617
sale and postponement of same....2617, 2618
redemption of.......... 2619
redemption moneys, disposition, account of and report of.......... 2620
grant of, record and report of.......... 2620
county commissioners may sell after time for redemption has expired.......... 2621
statement of treasurer on settlement with county clerk for taxes.......... 2560

PUBLIC REPORTS—Continued.
  of county clerk to State auditor of each kind of property assessed and delinquent, and total amount of delinquent taxes 2567
  suits, tax, against person removing to another county 2612
  evidence on trial thereof 2613
  expenses thereof 2614
  where delinquent tax amounts to three hundred dollars 2696
  form of complaint in such action 2696
  attachment, evidence and judgment therein 2697
  payment of such tax after suit brought 2697
  sum of fifty cents collected on each piece of property sold for taxes 2574
  treasurer, attendance at office of county clerk with delinquent list 2603
  oath taken by 2604
  affidavit of 2606
  uncollected taxes, disposition of 2610
  unpaid taxes, *prima facie* evidence of 2604
Definitions,
  credits 2407
  debts 2407
  full cash value 2407
  personal property 2407
  property 2407
  real estate 2407
  includes possession to and right of Sub. 1
  mines, minerals quarries, timber Sub. 2
  improvements, which includes buildings, structures, etc Sub. 3
  value and full cash value 2407
Equalization, County Boards of,
  abstract of mortgages and other securities for, by county clerk 2497
  addition to assessment directing 2494
  affidavit to corrected assessment 2495
  alteration of assessment, extent of, see increase, inserting, new, reduction, record and entry of 2495
  cancellation of assessment, beyond power of 2486
  changes and corrections of assessments, record of 2495
  corrected assessment, delivery of, and affidavit to 2495
  entry on assessment book of changes and corrections of assessment by 2495
  force and effect of assessments by 2493
  increase of assessments by 2494
  incumbrances abstract of for use of 2491
  inserting assessments 2494
  meeting of county commissioners as 2485
  mortgages and other securities, adjusting assessment of 2491
  new assessment to direct making and entry of 2494
  notice of investigation to make additions, etc., to assessments 2494
  power of board to equalize assessments 2486
  to require entry of overlooked assessments 2493, 2494
  record of changes and corrections in assessments 2495
  records, use of, in equalizing assessments 2495
  to direct increase of assessments or of making new assessments 2494
  reduction in valuation, application for 2487
  examination of applicant for 2488
  hearing of the application 2489
  presence of assessor and deputy 2490
  sessions of county commissioners, as 2485
Equalization, State Board of,
  who compose 2500
  clerical work and stationery 2702
  collusive assessment, prosecution of assessor for, at instance of 2508
  composition of 2500
  duplicate, may dispense with 2695
  equalization of assessments by 2502
  expenses of traveling 2509
  forfeiture for disobedience to subpoena, rules of 2506
  fraudulent assessments 2508
  mortgages or other securities for debt, county clerk's abstract of, when transmitted to 2491
  number of members composing 204
PUBLIC REPORTS—Continued.
  oaths, administration of 2508
  officer, disobeying rules, etc., of forfeiture against 2506
  president of board 2500
  powers and duties as to tax levy 2515-2521
  rate of State tax, determination by and notification of 2505-2516
  report of 2501
  railroad record of assessment 2496
  statement from assessment book, obtaining on county clerk's default 2503
  of changes made by board sent to county clerk 2504
  prima facie evidence by such statement 2504
  secretary of board 2500
  supplies for 2500
Informalities and Irregularities,
  assessment defective and invalid 2685
  of land 2685
  of acts relating to assessment or collection of taxes, not illegal on amount of 2689
  assessment books, in, supplying or correcting 2685
  completion of assessments, or act relating to, etc., not effecting within time prescribed, does not cause illegality 2689
  delinquent list, in, remedying by republication 2686
  illegality not produced by 2689
  land characters that may be used to designate divions of 2688
  publication in any, remedying by republication 2686, 2687
Levy of Taxes,
  funds, amounts required to be raised for the several 2515
  lien of tax 2521
  on personal property 2520
  on real property and improvements 2521
  rate of taxation for State purposes, fixed by State board of equalization 2516
  such action a valid levy when 2518
  of county taxes, fixed and levied by board of county commissioners under limits 2517
  when county commissioners fail to levy tax 2518
  school tax, State, levy of by legislative assembly 2522
  tax, operation of as judgment or lien 2519, 2520, 2521
State School, See School.

Miscellaneous Matters,
  abbreviations 2688
  defects may be supplied 2685
  collection of tax by action 2696
  complaint for delinquent tax 2697
  fines, forfeitures and penalties 2690

Informalities and Irregularities,
See That Head.
  injunction does not lie 2699
  exceptions 2699
  omission how corrected 2686
  supplemental assessment 2698
  State board may dispense with duplicate 2695
  settlement annual 2691

Poll Taxes,
  amount due for 2638
  blanks for poll tax receipts, printing of 2639
  style of 2641
  treasurer's duties concerning 2642
  county clerk's duties on receipt of 2643
  delivery and charge of to assessor 2645
  collection of generally 2643
  period for 2639
  forcing by seizure and sale of personal property 2639
  conduct of sale 2646
  assessor's oath of amount obtained by 2655
  debtor of person failing to pay, liability for 2647
  application to officers 2651
  deduction from indebtedness on payment of 2652
  corporation liable for, due from employes 2648

PUBLIC REPORTS—Continued.
- assessor may require verified statement.. 2649
- penalty for failure... ... 2649
- assessor may seize property on failure of corporation or person to pay 2650

Delinquent,
- roll of persons owing 2659
- percentage added to roll... 2600
- lien of... ... 2661
- collection of... 2661
- demand of 2645
- exempt from payment of militia men.. 1400
- persons liable to pay ... 2638
- roll of... ... 2659
- proceeds of, used for State school fund 2662

Receipts,
- poll tax, see blanks, delivery of, to whom made... ... 2653
- evidence of payment, sole ... 2654
- return of by assessor to county clerk. . 2656
- return of by county clerk to treasurer.. 2657
- credit for county clerk's return of... 2658
- preservation by treasurer 2658
- settlement for by assessor... 2655

Railroads,
- how assessed... ...2416, 2455, 2456. 2457
- street... 2436
- in one county... .. 2437
- order by county commissioners... 2458
- record of assessment 2460

Settlements and Payments,
- assessor's settlement with county clerk for taxes .. . ... .2655, 2656
- county clerk report of to State Auditor 2670
- disposition of copies of report of... 2671
- penalty for failure in such duties .. 2672
- State auditor's entry upon such reports... 2674
- return and filing copies of report. 2674, 2675
- entries by county clerk in his account with treasurer thereupon... 2676
- books of officer charged with collection and receipt of State taxes, examination of by State auditor... 2678

County Commissioners,
See Next After Violation of Revenue Laws.
- mileage allowed by State auditor to treasurer... 2677
- prosecution of delinquent officer directing... 2679
- counsel and expenses... 2680
- revenue transactions, annual settlements with county clerk... 2691
- treasurer's annual final settlement with county clerk 2696
- treasurers, county, settlements of with State auditor... 2668
- deductions made by State auditor in such settlements... 2673
- payments of to State treasurer... 2668
- penalty for failure to make ... 2669
- to file copy of State auditor's statement 2675
- county clerks, entries in, amount with. 2676
- allowance for mileage... 2677
- violation of revenue laws, prosecution of officer for...2679, 2680

County Commissioners,
- allowance of deputies to assessor... 2693

See Salaries and Fees of Officers.
- blanks for statements, to furnish assessor 2420
- blank statement to show when tax becomes delinquent... ... 2420
- to show date of meeting of board of equalization... 2420
- equalization, functions, as county board of...2685-2694
- levy of taxes by 2517
- maps for use of assessor to provide... 2450
- rate of taxation transmitted to 2505
- of county taxes to fix... 2517
- reduction of assessments by, when prohibited... ... 2450

Tax,
See Certificate Under Collection of Property Taxes.
- generally... ... 2400
- improvements on, lien of... 2521
- license, see under licenses... ...2720-2762
- lien of...2521, 2520

PUBLIC REPORTS—Continued.
- operation of, as judgment or lien... 2519
- personal property, on, lien of... 2520
- real property, on, lien of... 2521
- road, see under road... 1725
- sale, see under collection of property taxes... ...2555-2621
- school, see under schools, public... 1235

Taxation.
- basis of 2461
- corporations, of property of..2411-2415, 2431
- exemptions from... 2401
- generally... 2401
- mines, how taxed...2402, 2470-2478
- property, subject to ... 2400
- assessor to make list of... 2416
- exempt from... ... 2401
- of corporations 2431
- mines 2402
- rate of, for State purposes...2505, 2516
- for county purposes... ... 2517
- on movable personal property ... ,2628-2630
- savings banks deposits of ... 2411
- shares of stock in corporations... 2431
- State may acquire property by... 35

Taxes,
Assessment of, See Assessment.
- collection of property... ...2555-2621
- delinquent, see under collection of property taxes 2565, 2621
- equalization of, see under that head... ...2485-2495
- levy of see that head...2515-2522
- militiamen exempt from certain... 1406
- poll... 2645-2661
- property collection of 2555
- protested... ...2615, 2616
- see stock indemnity fund...1980, 1981, 2002
- sheep indemnity fund... ... 2038

REVIVAL,
- of former repealed, none by this Code.. 17

RIGHT,
- accrued how affected by this Code.... 17
- existing not affected by repealing operation of this Code... 17

RIGHTS,
- vested... 17

RIGHT-OF-WAY,
- acquired by establishing highways and roads ... 1710
- proceedings to procure for roads...1818-1837
- through State lands... ... 2351

See Constitution, Art. III., Sec. 15.

ROADS,
- see highways and roads... .. . 1675-1845

RULES,
- repeal of previous, by this Code, extent of... ... 17
- residence, for determining place of.... 42

SALARIES AND FEES OF OFFICERS,

Administrator,
- public fees of... ... 3177
- advance fees must be paid in... 3147
- action, civil and criminal, see witness. 3184-3192
- affidavit of deputies and form of ... 3146
- affidavit of officer as to correctness of fee book... ... 3144

Assessor,
- see county assessor...3133 3138

Attorney General,
- may compel attendance of witness... 3156

Board of County Commissioners,
- not to order salary paid until duplicate receipt filed ... 3145
- to allow deputies, when... 3136
- to determine compensation of deputies. 3139
- not to allow, of deputies until affidavit filed... 3146
- must allow actual traveling expenses to sheriff ... 3140
- expenses of boarding prisoners 3140
- to declare office vacant, when... 3165
- statement of clerk to be sent to... 3186
- fees of... 3196

Boarding Prisoners,
- expense of... 3140
- itemized account of expenses of... 3141
- vouchers for expense of... 3141
- no profit out of... 3141

Clerk of District Court,
- salary of... ... 3133

SALAIES AND FEES OF OFFICERS—Continued.
  certificate to witness 3157
  deputies allowed.......................... 3137
  fees of 3172
  fees in probate proceedings 3173
  fees to be paid monthly into county treasury 3142
  copy of fee book and affidavit. 3143
  fees to be posted in office.... 3151
  must be paid in advance. 3147
  no other fees. 3152
  duties as to jurors......... 3181
  as to witnesses............................ 3186
  statement to board of commissioners.. 3186
  keep record of attendance of witnesses. 3187
  certificate as to amount due witnesses. 3187
Classification,
  of counties....... 3132
  of salaries.................................. 3133
Certificate of Clerk,
  as to jurors..... 3180
  as to witnesses.................. 3157, 3185
County Attorney,
  salary of......... 3133
  how and when paid........................ 3134
  deputies allowed 3138
  must prosecute offense when.......... 3151
  to issue subpoenas and compel attendance of witnesses when 3156
County Clerk,
  salary of.................................... 3133
  deputies allowed 3137
  fees of........ 3171
  fees to be paid monthly to county treasurer.............. 3142
  fee book, copy of and affidavit. 3143
  itemized receipt for fees 3150
  keep posted in office fees allowed by law......... 3151
  fees of must be paid in advance. .. 3147
  must receive no other fees............. 3152
Courts of Record and not of Record,
  see witness 3184-3192
County Treasurer,
  salary of.................................... 3133
  semi-annual reports of all public moneys received 191
PUBLIC PRINTING
  See Board of Examiners, Board of County Commissioners Under Counties.
PUBLIC LANDS,
  see lands, State 2320-2364
PUBLIC OFFICERS,
  see under officers classification of..... 80
PUBLIC SCHOOLS,
  see schools, public..............1030-1324
PUBLIC WATERS,
  see navigable streams and waters..... 1675
PUBLIC WAYS,
  what are..... 1675
  see navigation.....................1680-1689
PUPILS,
  See Normal School; Schools, Public.
PURCHASE, CERTIFICATE OF,
  See Under Lands, State.
PURCHASERS, DELINQUENT,
  See Under Lands, State.
QUALIFICATIONS,
  of officers.................................. 520
  of electors.................................. 670
  of county officers.......................... 2920
  of township and district officers....... 2921
  of city or town officers.... 3346
QUESTIONS AND CANDIDATES FOR ELECTION,
  see elections.... 765-777
RAILROAD PROPERTY,
  assessment of......................... 2455
RAMS,
  see rams and he goats not to run at large.............................2044-2047
RATE,
Of Taxation, See Taxation Under Revenue.
REAL ESTATE,
  meaning of term in regard to taxation. 2407
  See Real Property.
REAL PROPERTY,
  meaning of words in this Code........ 16
RECEIPTS,
  money paid to county treasurer, for... 2951
  Poll Tax, See Poll Taxes Under Revenue
RECEIPTS.—Continued.
  Road Tax, See Under Highway Taxes.
REDEMPTION,
Of Property Sold for Taxes, See Collection of Property Taxes Under Revenue.
REFORM SCHOOL STATE,
  See Penal Code
REGIMENTS,
  See National Guard.
REGISTRY OF BIRTHS, MARRIAGES AND DEATHS,
  see births, marriages and deaths...1909-1914
REGISTRATION,
  of electors, see under elections ...685-708
REGISTRY AGENTS,
  appointment, term of office, duties see under elections.....................685-708
REGULATION OF COAL MINES,
  maps of coal mines to be furnished inspector.......................... 2230
  additions to the maps to be made, where 2231
  failure to provide maps................ 2232
  escapes.... 2233
  escapes, how constructed. 2234
  ventilation of............................ 2235
  enforced by inspector............. ... 2236
  gases examination for 2237
  unlawful working of...................... 2238
  foreman, what required of............. 2239
  ventilation furnaces, how built....... 2240
  hoisting and lowering into mine ... 2241
  signals, cage how loaded and protection........... ....2242, 2243
  penalties........... 2244
  State to furnish appliances ... 2245
REGULATING THE SALE OF COAL OR KEROSENE OIL,
  adulterated oil not to be sold, may be tested 2250
  test, how made............................ 2251
  illuminating gas outside building not included.... 2251
  penalties....... 2252
REMOVAL
  of county seat, see under county...2807-2815
REPEAL,
  of statutes, abolition of office by...... 7
  proper at any time......... 179
  contemplation of power of............ 179
  of repealing act no revival by......... 180
  of law creating criminal offense....... 3793
  of repealed statutes.... 3793
  express repeal of statutes.............. 181
  See Repeals.
REPEALING EFFECT,
  of this Code.... 17
REPEALS,
  generally and by implication. 17
REPORTER OF DECISIONS OF SUPREME COURT,
  clerk of the supreme court ex-officio... 470
  must prepare report of cases decided as court directs with index 471
  must be made as court directs.... .. . 472
  publication of reports under supervision of supreme court.... 473
  proof sheets must be furnished justices 473
  justices must make corrections and return 474
  in well-bound volumes, required...... 475
  style of printing 475
  by contract, of what nature.......... 476
  requirements of contract, as to style and time of printing and publishing, copies kept for sale, bonds, etc...... 477
  copies purchased for State..... 478
  distribution of such copies and deposit of surplus............................ 478
  copyright in Secretary of State....... 479
  report of such decided cases as court may direct to prepare............... 471
  to submit same to court for approval and correction...... 473
  to be made in manner and form as the court may direct............ 472
  reports to be published under supervision of the court................... 471
  proof sheets to be furnished to each of justices................................ 473
  same to be returned and corrected..... 474
  style of publishing and printing....... 475

REPORTER OF DECISIONS OF SUPREME COURT—Continued.
publication by contract.................. 476
volumes purchased for use of State.... 478
reporter must have no pecuniary interest in.......................... 476
REPRESENTATIVE DISTRICTS,
how constituted....................... 59
REPRESENTATIVE, CONGRESSIONAL,
see under elections 910-912
REORGANIZATION,
of cities and towns under the Code 3562-3565
REPORTS, PUBLIC,
see public reports....................187-191
Boards of Officers of,
See Officers.
Commissioners of
time presented for.................187, 191
Directors,
time of report to Governor and legislative assembly.................187, 191
distribution of reports of State officers 187-191
Printing of Reports of State Officers,
time for.............................. 188
number of each to be printed............ 189
Officers and Boards of,
when to report to Governor and Legislative Assembly..................... 187
number to be printed.................... 189
distribution of......................... 190
supreme court.....................470-479
Secretary of State...................... 238
See Names of Various Officers.
RESERVATIONS,
Indian and military..................... 28
service of process upon................. 28
Reservoirs and Dams..............2295-2308
RESIDENCE
Challenge Concerning, See Elections.
change of allegiance may be renounced by.................................. 47
every person has in law................. 42
Officers of, Restrictions on.
See Officers.
place of, rules for determining......... 42
rules for determining place of.......... 42
same for election purposes..........695-700
RESIGNATION OF OFFICERS,
see officers............................ 617
RESOLUTION, JOINT,
when takes effect....................... 176
RETROACTIVE,
Political Code, not..................... 3
RETURN OF PROCESS,
by sheriff........................2985-2987
RETURNS, ELECTION,
Canvass of, See Under Elections.
REVENUE,
assessment, abbreviations allowed in assessment of land 2688
absent or unknown owners.........2424, 2425
agent, by............................... 2428
administrators, executors, and guardians................................ 2428
alteration of, by commissioners......... 2486
another county, transmission of statement of property in, for assessment ment therein.......................... 2426
apportionment of, on mortgages, etc., in several counties or subdivisions... 2491
Assessor,
to make list of persons and property subject to taxation.................. 2418
statement required by................... 2419
blank forms of statement, commissioners to furnish to.................... 2420
filling out or delivering statement 2421
power to require affidavit and testing.. 2422
to note refusal to make statement and estimate value of property 2423
estimate not to be reduced by commissioners............................. 2423
assessing property of absent or unknown owner 2424, 2425
disposition of statement of taxable property in another county 2426
consigned property...................... 2427
discovering property that has escaped assessment, to assess.............. 2441
REVENUE—Continued.
to prepare assessment book.............. 2442
completion of assessment book, and affidavit thereto..................... 2449
to prepare map book 2445
statement transmitted to State board of equalization by.................. 2446
statement as to State lands sent to. ... 2451
liability on bond for unassessed taxes.. 2452
action on such bond 2453 2454
statement concerning railroads sent to. 2455
assessment by and by State board of equalization, as basis of taxation... 2456
abstract of incumbrances sent to. 2491
corrections of assessment by......2493, 2494
correction of assessment book by...... 2485
deputies of..................2493, 2494, 3134
county commissioners order by....... 2458
boat and small craft, where assessed.. 2433
Bank, Stock Assessment of, See Under Corporations.
banker or broker, how assesssed...... 2415
bridges and ferries..................... 2436
book, see assessment book............... 2449
canals 2437
capital stock in corporations, where assessed................................ 2431
certified copy of assessment book as evidence.............................. 2613
Code, before taking effect of 2692
concealment, etc., of property, penalty for................................ 2440
consigned personal property........... 2447
county taxation and of local districts, assessment as basis of.............. 2461
credits, solvent of 2418
corporations, stock in banking, how assessed.............................. 2411
what deductions made.................... 2412
how made................................ 2413
national bank stock out of State....... 2414
capital stock, where assessed........... 2431
decedents, undistributed, or unpartitioned property of, how assessed.2428-2430
delinquent time when.................... 2420
description of land..............2419, 2442
not repeated............................ 2449
defective and invalid................... 2685
ditches................................. 2437
dissatisfied owner of railroad may apply again 2459
description not repeated................ 2449
electric light lines..................... 2437
escaping or evading penalty 2440, 2441
equalization of..................2485-2502
exemptions from, what property exempt 2401
express and stage companies.......... 2433
ferries 2436
flumes 2437
firm or corporation, assessment of property of............................ 2429
franchises 2416
gas and water companies................. 2434
gas and water mains..................... 2435
increase of............................. 2486
informalities in do not vitiate......... 2689
irregular effect of..................... 2610
judgment in action against assessor... 2454
lands of, and improvements thereon, separately. 2410
where assessed.......................... 2418
credits, how............................ 2418
listed property, how.................... 2442
list of lands sold by State sent to assessor............................... 2451
litigation, money or property in where assessed............................. 2439
live stock migratory, of................ 2438
making, time of......................... 2418
manufacturers........................... 2432
maps for assessor....................... 2445
merchants and manufacturers............. 2432
where assessed.......................... 2432
Mines, See Assessment of Net Proceeds of, Under Revenue.
mortgages, how assessed................. 2417
national bank stock out of State....... 2414
names of all taxable inhabitants, assessor to ascertain, when............. 2418
new, county commissioners may direct................................... 2494

REVENUE.—Continued.
  penalties, for failing to meet requirements of assessor and disposition of same 2422
  persons claiming ownership desiring to be assessed 2449
  place of 2417
  of property of firm or corporation 2431, 2449
  vessels, boats and small craft 2433
  property subject to taxation 2400
  railroads, of .... 2416, 2436, 2437, 2455, 2456, 2457.
  contesting legality of tax 2455
  record of assessment 2460
  dissatisfied owner of, may apply again 2459
  repetition of, in same year 2609
  representation designation added in assessment by agent, executor, etc. 2428
  record of assessment of railroads 2460
  residence, affidavit of, may be required by assessor 2422
  in another county, disposition of affidavit showing 2432
  roll, time for return of 2440
  statement, required by assessor, of taxable inhabitants and contents of 2419
  blank forms for, and affidavit to 2420
  filling out or requiring same 2421
  disclosing property in another county, disposition of 2422
  sent by assessor to State board of equalization 2447
  liability for failure to transmit same 2448
  private banker to give 2415
  stock in banking corporations 2411
  what deductions made 2413
  national out of State 2414
  private dealer in 2415
  sworn statement of property by taxable inhabitants 2419
  taxation, what property subject to 2400
  telegraph lines 2437
  telephone lines 2437
  trustees, guardians, executors, etc 2428
  trial in action against assessor 2454
  twice, remedy 2609
  unassessed, liability of assessor and sureties for property which is 2452
  action for taxes lost by such willful failure or neglect 2452
  trial and judgment in such action 2454
  unknown owners to 2425
  value, full cash, taxable property assessed at 2410
  fraudulent assessment below, prosecution for 2507
  vessel, where assessed 2433
  water ditches, of 2437
  water companies 2434
  mains 2435
Assessment of Net Proceeds of Mines,
  owners must make statement 2470
  what statement to contain 2471
  deductions to be made 2472
  assessment book of net proceeds 2473
  duties of assessor and other officers 2474
  failure to make duty of assessor 2475
  assessor may examine books 2476
  improvements, etc., not exempt 2477
  taxes, how collected 2478
  tax a lien 2478
Assessment Book,
  Affidavit to 2449, 2495
  county clerks, functions concerning 2530-2541
  delivery to and notice by 2446
  comparison to secure correspondence of duplicate and original 2562
  of delinquent list with 2565-2603
  completion of 2449
  penalty for failure of assessor in 2448
  contents and requisites 2442
  corrections of entry, of defects in 2685
  entry of, on 2495
  defects, formal, or omissions or errors, supplying or correcting, in 2685
  description of lands on, need not be repeated 2449
  duplicate, delivery of and affidavit thereto 2535
  dispensing with 2541, 2695
  using original in place of 2541, 2695

REVENUE.—Continued.
  supplying or correcting omissions, errors or defects in form of 2685
  entries in 2440
  evidence, original or duplicate as 2535
  examination of, by county commissioners 2445
  form of 2445
  supplying or correcting defects in 2685
  inspection, remaining for 2440
  map book 2446
  county commissioners to furnish 2446
  original remaining in county clerk's office 2536
  using and mentioning in place of duplicate 2541
  supplying or correcting omissions, errors or defects in form of 2685
  property not assessed, county commissioners may direct assessor to enter on 2493
  settlement of treasurer with the county clerk 2665
  statement, refusal to make noting on 2443
  tax, date of payment marking in 2440
  taxes, corrected, county clerk, computing and entering on 2534
  on certain personal property, noting payments, etc., on 2632, 2633
  valuations, total, entry by county clerk on 2530
Assessor,
  Assessment by, See Assessment Under Revenue.
  collections by of tax on movable property 2625, 2626, 2628, 2632
  settlement and payment of moneys received from 2631
  of poll taxes 2634
  deputies of allowance of 2693, 2493, 2494, 3134
  compensation of 2694
  judgment, when entered against 2454
  judgment, when entered against 2694
  poll tax, collection of by 2639, 2645, 2646
  receipts for 2640, 2644
  rolls of persons liable for 2659
  lien and collection of delinquent 2661
  settlement by annual, for revenue transactions 2691
County Clerk's Functions,
  acreage, total of county, showing 2530
  adding up values in 2530
  changes of assessments, entering on assessment roll 2533
  charge against treasurer of full amount of taxes levied 2536
  comparison of original and duplicate assessment books by 2562
  of delinquent lists and assessment book 2565
  computing and entering corrected taxes in assessment book 2534
  delinquent lists, to remain on file in county clerk's office 2605
  duplicate assessment book, delivery of, and affidavit to 2541
  dispensing with 2541, 2695
  expenses of collecting certain taxes to allow 2614
  forfeiture of county clerk's failure to prepare and transmit statement 2540
  footing total of taxes and valuation 2534
  amount of taxes remaining unpaid 2605
  original assessment book, remaining in county clerk's office 2536
  substituting for duplicate 2541
  personal property tax, a lien on realty, payment of, etc., on assessment book 2632, 2633
  poll tax and receipts therefor, functions concerning 2642, 2644, 2655, 2660
  report of county clerk to State auditor of revenue due 2670, 2672, 2674, 2676
  statement of changes in assessment roll, etc., forwarded to county clerk 2504
  duplicate, preparing from assessment book 2531
  showing of 2531
  transmission of 2503, 2532
  verification of 2538
  penalty for failure to prepare or transmit 2540

REVENUE—Continued.

  - allowance for making........ 2699
  - transfer of assessment book from one treasurer to another, charges and credits on........ 2539
  - total valuations, entry of on assessment book........ 2530
  - treasurer, monthly settlement with county clerk, and statement to him.. 2560
  - to compare assessment books, together with county clerk........ 2562
  - to deliver delinquent list to county clerk........ 2563
  - comparison of delinquent list with assessment book by county clerk...... 2565
  - oath administered by county clerk..... 2604
  - crediting with amount of unpaid taxes 2565, 2605
  - final settlement with........ 2561, 2605
- County Commissioners,
  - See That Head.
- Collection of Property Tax,
  - administrator or executor of estate to pay all taxes, or distribution withheld........ 2559
  - certificate of sale, contents........ 2580
  - signature to........ 2581
  - disposition of copies of........ 2581
  - entries concerning........ 2582
  - lien on filing for record........ 2583
  - comparison of duplicate with original assessment book to make them correspond........ 2562
  - of the delinquent list with assessment not marked paid........ 2603
  - See County Property, after Settlement.
  - deputies allowed........ 3138
  - must preserve statements and issue to officer duplicate receipts........ 3143
  - fees of........ 3174
- County Surveyor,
  - fees of........ 3175
- County Assessor,
  - salary........ 3133
  - deputies allowed........ 3138
- Coroner,
  - fees of........ 3176
- Constable,
  - fees of........ 3179
- Clerk of Supreme Court,
  - fees of........ 3167
  - salary of........ 465
- Clerks of Elections,
  - fees of........ 3195
- Commissioner of Deeds
  - fees of........ 3169
- Civil Action,
  - fees of witnesses in........ 3190, 3191
- Criminal Actions,
  - fees of witnesses in........ 3185, 3188
  - district court or judge order for witnesses in criminal actions........ 3193
  - deputies when board to allow........ 3136
  - how allowed........ 3146
  - compensation of maximum........ 3135
  - affidavit of........ 3146
  - whole number allowed........ 3137, 3138
- Deeds, Commissioner of,
  - fees........ 3169
- Duties of Clerk,
  - as to jurors and witnesses........ 3184-3187
  - of board of county commissioners as to 3145, 3136, 3139, 3146, 3165, 3186
- Expenses,
  - of conveying prisoners........ 3170
  - of boarding........ 3141
  - itemized account of........ 3141
  - in lieu of mileage........ 3140
- Experts,
  - fees of........ 3194
- Elections, Judges,
  - fees of........ 3195
- False Oath,
  - penalty for........ 3166
- False Report,
  - penalty for........ 3162
  - false representations as to mileage.... 3163
  - falsely representing expenses........ 3164
- Failure to Pay Over Fees,
  - penalty for........ 3161
- Fees,
  - must be paid in advance........ 3177

REVENUE—Continued.

  - paid into treasury monthly........ 3142
  - fee book and affidavit........ 3143
  - must be itemized and receipted........ 3150
  - keep posted in office........ 3151
  - officer must receive no other........ 3152
  - fee book........ 3144
  - of deputies........ 3139
  - collected by officer for use of county... 3130
  - exception........ 3131
  - none for mileage........ 3140
  - statement of and from whom collected. 3143
  - affidavit........ 3143
  - statement must be filed before salary paid........ 3145
  - none charged to State, county or public officer........ 3148
  - none for naturalization........ 3149
  - for publication may be demanded in advance........ 3153
  - of witness on behalf of State or county. 3156
  - certificate for by clerk........ 3157
  - penalty for failure to pay over........ 3161
  - penalty for false report of........ 3162
  - of Secretary of State and auditor..... 3166
  - of clerk of supreme court........ 3167
  - of notary public........ 3168
  - of commissioner of deeds........ 3169
  - of sheriff........ 3170
  - of county clerk........ 3171
  - of clerk of district court........ 3172
  - in probate proceedings........ 3173
  - of county treasurer........ 3175
  - of coroner........ 3176
  - of public administrator........ 3177
  - of justice of the peace........ 3178
  - of constable........ 3179
  - of jurors........ 3180
  - of witnesses........ 3184, 3187, 3188, 3189
  - must be paid by party subpoenaing.... 3190
  - in advance in civil actions........ 3191
  - of county commissioners........ 3196
  - of interpreters........ 3193
  - of experts........ 3194
  - of judges and clerks of election........ 3195
- Grand Jurors,
  - fees of........ 3180
- Jurors,
  - fees........ 3180
  - none for Sundays or holidays........ 3182
  - no per diem if excused first day........ 3180
  - mileage in such case........ 3180
  - in courts not of record........ 3183
  - must be paid by party demanding........ 3183
  - taxed as costs........ 3183
  - no fees in criminal actions in courts not of record and on coroners' inquests.. 3183
  - in courts of record in civil actions..... 3182
  - in courts not of record in........ 3183
- Judge District Court,
  - order for witnesses in criminal actions 3192
- Judges of Election,
  - fees of........ 3195
- Mileage,
  - must receive but one........ 3155
  - clerk must keep record of and compute as to jurors........ 3140
  - how computed........ 3155
  - mileage of sheriff........ 3170
  - of witnesses........ 3184
- Naturalization,
  - no fees for........ 3149
- Notary Public,
  - fees of........ 3168
- Officers,
  - salaries of........ 3133
  - deputies of........ 3137, 3138
  - must give itemized receipt........ 3150
  - number of deputies and compensation. 3139
  - fees, must collect and pay into county treasury........ 3142
  - monthly payment of........ 3142
  - statement of fees and affidavit........ 3143
  - fee book of........ 3143
  - salary not paid until statement of fees filed........ 3143
  - fees of, must be paid in advance........ 3147
  - failure to perform service when fees tendered, liability on official bond... 3147
  - must not charge State, county or public officer........ 3148
  - no fee for naturalization........ 3149

REVENUE.—Continued.
  amount of fees, must deliver to party paying........................ 3150
  must keep statement of fees posted in office.... 3151
  penalty for failure... 3151
  must receive no other fees............ 3152
  may demand fees in advance for publication..... 3153
  mileage, must receive but one when... 3155
  officer must complete business of...... 3159
  penalty for failure 3159
  false oath, penalty for.......... .. 3160
  penalty for failure to pay over fees .. 3161
  for making false report................ 3162
  office, when declared vacant.......... 3165
  officer, conviction of........ 3165
  order for witnesses in criminal actions. 3192
Oath, False,
  penalty 3160
Penalty,
  for failure to pay over fees........... 3161
  for false oath......................... 3160
  for false report............. 3162
  for sheriff who falsely represents his expenses for traveling.............. 3163
  or for boarding prisoners.............. 3164
Prisoners
  boarding.............................. 3140
Public Administrator,
  fees of......................... . 3177
  fees received for his own use.......... 3131
Salaries,
  all county officers receive.............. 3131
  exception......... 3131
  classified........... 3133
  paid quarterly 3134, 3139
  of county attorney, how paid.... 3134
  not paid until statement of fees filed... 3145
  of officers................. 3133
Secretary of State,
  fees of 3166
State Auditor,
  fees of................................ 3166
Subpoena Serving,
  but one mileage, when...... 3170
Sheriff,
  salary............................ 3133
  deputies allowed....................... 3137
  under sheriff, must appoint............ 3137
  mileage, must not receive 3140
  actual traveling expenses allowed by board. 3140
  expenses of boarding prisoners....... 3140
  no profits out of. 3140
  itemized account of and vouchers...... 3140
  penalty for making false reports....... 3163
  fees of............ 3170
  conveying prisoners................... 3170
  fees must be paid monthly into treasury.............................. 3142
  fee book, copy and affidavit 3143
  itemized receipt for fees............... 3150
  keep statement of fees posted in office.. 3151
  fees must be paid in advance.......... 3147
  must receive no other fees.............. 3152
Surveyor,
  see county surveyor.................... 3175
Superintendent,
  of schools............................ 3133
Treasurer,
  see county treasurer.........3133, 3174, 3185
Vacancy,
  when office declared vacant........... 3165
Witnesses,
  fees of in courts of record......... ... 3184
  mileage............................... 3184
  in criminal actions, must report to clerk first day 3185
  certificate of clerk to..............3185, 3157
  treasurer to pay amount named in certificate 3185
  list to be kept by clerk............... 3186
  report to board........................ 3186
  record of attendance kept by clerk..... 3187
  attorney general may compel attendance of............ 3156
  county attorney...................... 3156
  in courts not of record in civil actions. 3188
  no mileage............................. 3188
  in courts not of record in criminal actions.............................. 3189

REVENUE.—Continued.
  in coroners' inquests.... .... [illegible]
  in civil actions must be paid by party subpoenaing............ . . .. [illegible]
  in advance..... . ... [illegible]
  except on behalf of State or county 3156, [illegible]
  taxed as costs against losing party..... [illegible]
  number limited in criminal actions on behalf of defendant...... .... [illegible]
  interpreters .... [illegible]
  experts................ .... [illegible]
SALARIES,
  of city and town officers ....3356-[illegible]
  see salaries and fees of officers....3130-[illegible]
SALE.
  Auction, See under Auctions.
Tax, See Collection of Property Taxes under Revenue
SCHOOL FUND,
  amount to be raised for...........1263-[illegible]
  apportionment of. .... [illegible]
  county tax...... ....1234-[illegible]
  State auditor's functions concerning.. [illegible]
  school districts......................1060-[illegible]
SCHOOL TRUSTEES,
  election of.............1072-1081, 1091-1101
SCHOOL LANDS,
  See Under Lands, State.
  city or town site on. ... .3620, [illegible]
  school lots in town sites.. . ....3617, [illegible]
SCHOOL OF MINES,
  established............... .. .. [illegible]
  control and supervision........... ... [illegible]
SCHOOLS, PUBLIC,
  admitted to, who may be............... [illegible]
  who excluded.... . ... [illegible]
  separate for children of African descent [illegible]
  bonds school, see that head.......1263-[illegible]
  branches of instruction enumerated.... [illegible]
  census marshals, see that head... 1110-1117
  disturbing, penalty for.... ... . [illegible]
  districts, see that head 1060-1066
  Education, Board of, See That Head.
  English language must be taught in.. [illegible]
  exclusion of children authorized in certain cases........ .... [illegible]
  free, period of maintenance of.... . [illegible]
  instruction, course of in... .... [illegible]
  libraries, district, see that head....1154-[illegible]
  manners and morals, instruction in.... [illegible]
  moneys, school see that head......1263-[illegible]
  month, school, construed............ [illegible]
  physical exercises, attention to....... [illegible]
  printing or binding for, provisions concerning.................. .... [illegible]
  publication of a sectarian partisan or denominational character, interdiction of.... .... [illegible]
  pupils, see that head.............1150-[illegible]
  school rooms, attention to temperature and ventilation of...... .... [illegible]
  school year... .... [illegible]
  sectarian or denominational doctrine, prohibited to be taught .... [illegible]
  publication of like character, provision against .... [illegible]
  penalty for violation of these provisions [illegible]
  sessions, daily, duration of.......... [illegible]
  studies prescribed........... .... [illegible]
  other, by whom authorized,.......... [illegible]
  studies, what must be taught . ..... [illegible]
  tax, school...............1234-1236, 1245-[illegible]
  teachers, see that head...........1166-[illegible]
  teachers' institutes, see that head..1050-[illegible]
  text books, uniform series of .. .. [illegible]
  rules governing adoption of.......1295-[illegible]
  prescribed, enforcing use of by withholding portions of school moneys... [illegible]
  See Text Books.
  trustees, school, see that head....1072, [illegible]
  year, school, beginning and end of.... [illegible]
Boards, School,
  bribe, acceptance of, by member board of education........................ [illegible]
  bribery of member of board of education, is felony .. .. [illegible]
  punishment and disqualification for such offense....................... [illegible]
  testimony in investigation of.. . ..... [illegible]
  certificate or diploma, irregular issuance is misdemeanor............... [illegible]

- SCHOOLS, PUBLIC—Continued.
  - contract void, if member of school board personally interested therein 1321
  - or if obtained by corrupt means 1324
  - introducing or recommending books, etc., interest of member of school board in, is misdemeanor 1318
  - interest of member of school board in introduction of books, etc 1318
  - in any official contract 1321
  - malfeasance in office, investigation of charge of, against member of school board, etc 1324
  - moneys, school, use of by 1100
  - liability of members for loss of 1101
- Bonds, School,
  - election, ordering to decide whether shall be issued to raise money for district school house purposes 1272
  - conduct of such election 1273
  - ballots, what to contain 1273
  - when to issue 1273
  - how sold 1274
  - printing of 1278
  - favorable decision, entering 1273
  - interest on, tax for 1275-1277
  - issuance, mode of 1272
  - redemption time of, tax for 1275-1277
  - sale of, and disposition of proceeds 1274
  - tax, bond, levy of, for interest and redemption of district school bonds 1275, 1276, 1277
  - disposition of moneys collected from 1275
- Census Marshals,
  - compensation of, how audited and paid 1116
  - duties 1110
  - and see 1111
  - penalty for failure to perform 1117
  - failure to appoint, causing loss to district of its apportionment of school moneys, personal liability of school officials for 1101
  - joint districts, report of concerning 1111
  - listing, see report of 1110
  - report of 1112
  - for joint districts 1111
  - children of residents, absent at school to be included in 1114
  - children of non-residents attending institutions of learning or benevolence not to be included in 1115
  - penalty for neglect or refusal to make, as precribed 1117
- Clerk of School Districts,
  - see under districts, schools 1120-1122
- Districts, School,
  - boundaries, changing 1062
  - apportionments of school money not allowed unless teachers have certificates 1267
  - census marshals, see that head herein 1110-1117
  - clerks of, election of school trustees as 1120
  - duties of 1121
  - school supplies, to provide 1122
  - repair, to keep school house in 1122
  - composition of 1061
  - designation of 1060
  - formed by what 1061
  - joint, apportionment of school moneys to 1066
  - text books and rules of 1066
  - reports of teachers and trustees of 1066
  - libraries, see that head 1186-1188
  - name of 1060
  - trustees may sue in 1060
  - new, formation of 1062
  - notice of 1073
  - transmission of petition for, by county superintendent 1063
  - action upon petition for, by 1064
  - establishment of 1064
  - opening school in 1065
  - apportionment of school moneys to 1065
  - number, not to be part of designation of 1060
  - stationery supplied to 1098
  - territory, forming 1061
  - Trustees, See that Head Herein Below.
- District Census Marshal,
  - see census marshal 1110-1117
- Election of School Trustees,
  - election, when and where held, number of trustees 1072
  - notice of election 1073
  - polling places in incorporated cities 1074
  - judges of election, who are 1075
  - opening and closing polls 1076
  - who may vote 1077
  - voting must be by ballot 1078
  - challengers 1079
  - poll and tally lists 1080
  - certificate of election 1081
- Education, State Board of,
  - appointment and terms of membership of 208, 930, 931
  - composition of 930
  - majority must concur in valid measure 933
  - meetings of 934
  - number of members composing 930, 931, 208
  - powers and duties of 935
  - president of 932
  - secretary of 932
  - traveling expenses of 937
  - expenses, life diploma 936
- Examinations and Certificates,
  - see under teachers 1215-1224
- Fund, School,
  - see separate head of school fund; also moneys, school and tax, school 1263-1278
- High Schools
  - trustees may establish 1200
  - State Board of Education must establish uniform text-books for 1201
- Libraries, District,
  - care and preservation of, trustees accountable for 1186
  - control of 1186
  - fines and penalties, and fees of membership, power of trustees to assess and collect 1188
  - free to pupils 1187
  - fund, library 1185
  - place of keeping 1186
  - resident of school district, how may become entitled to privileges of 1187
  - rules and regulations for, power of trustees to make 1188
  - statistics, library, trustees to report 1188
  - trustees of duties concerning 1188
- Moneys, School,
  - bonds to raise, see bonds, school 1263-1278
  - apportionment of 1264, 1265
  - distribution of 1264, 1265
  - district school fund obligations where sufficient to maintain free schools during portion of year 1266
  - fees or compensation, none for handling 1263
  - school moneys, how used 1099
  - personal liability of members for loss 1100
  - liability for loss 1101
  - State and county, apportionment of, by school superintendent of county 1264
  - maintenance by district of school for certain portions of year, as condition of apportionment 1267
  - no apportionment to district unless teachers hold legal and effectual certificates 1267
  - tax to raise, see tax, school 1234-1236
  - use of 1099
  - town lots, money from sale of 1268
  - how used 1270
  - set apart for university may be used 1271
  - See School Fund.
- Officers School,
  - agent in introduction of books or other articles, penalty for acting as 1318
  - compensation not allowed to certain 1263
  - bribery of testimony and investigation 1324
  - gift or reward for introducing or recommending books or other articles, penalty for receiving, etc 1318
  - introduction or recommendation of books or other articles by, prohibition of 1318
  - must not be interested in contracts 1321
  - malfeasance in office, investigation of charge of, against officer or employe 1324
  - oaths, may administer 1320

SCHOOLS, PUBLIC—Continued.
Pupils.
  authority of teachers, must submit to.. 1151
  willful disobedience or open defiance of, is good cause for expulsion 1152
  compliance with regulations, etc., required of 1151
  course of study required, all must pursue... 1151
  disobedience, or defiance of teacher's authority as ground for expulsion... 1152
  must attend school 1154
  penalty for neglect........ 1155
  duty of trustees......... 1156
  expulsion, ground for............1152, 1153
  kept in school, how long daily........ 1138
  order of admission of 1150
  profanity and vulgarity, ground for suspension...... 1152
  religious or partisan test forbidden. ... 1174
  school property, defacing or injuring, liability to suspension or expulsion for 1153
  liability of parents or guardians for damages resulting from............ 1153
  suspension, grounds for..........1152 1153
Superintendent,
County, See Superintendent Common Schools.
  State, see superintendent of public instruction...... 930-937
Superintendents, School,
  boundaries of school districts, duties concerning...... 1045
  compensation............... 3133
  district school, when may maintain . 1042
  districts.apportionment of money to 1265,1040
  description and maps of............. 1045
  duties 1040
  duties as to examinations and certificates 1215-1224
  nuisances, on school premises, to direct abatement of........................ 1043
  outhouses, to provide.................. 1043
  repairs on school premises, to direct... 1043
  report, penalty for failure to make.... 1041
  of school census returns.............. 1044
  school district, petition to change, presented to...... 1062
  transmission of petition to commissioners, by 1063
  apportionment of moneys by, to districts.............................. 1265
  school moneys, mode of apportionment by.... 1264
  teachers, to appoint and open schools, when........ 1042
  teachers' institutes, county superintendent to hold..................1050-1053
  trustees, school, to fill vacancies among until next election 1094
  must keep account of actual expenses of 1053
Tax, School,
  county school fund, estimate of minimum amount of......... 1234
  money derived from county school tax, paid into............................ 1236
  how raised.... 1235
  county school tax, levy of 1235
  disposition of moneys derived from.. . 1236
  district bond tax, see under head of bonds, school.......... 1263-1278
  district school tax, election to determine whether shall be raised........ 1245
  notice of such election.............1246, 1247
  mode of conducting such election.1248, 1249
  content of ballots.... 1250
  certifying favorable majority to trustees............ 1251
  report of trustees to county commissioners........... 1252
  levy of tax by county commissioners.. 1253
  rate of tax, how ascertained........... 1253
  maximum of 1253
  school house, return of money collected for building, if same not commenced within a year....... 1245
  tax, assessment, collection and disposition of 1253-1275
Teachers,
  age of eligibility...................... 1172
  examinations for certificates........... 1216
  grades of........... 1217
  applicants for first grade 1218

SCHOOLS, PUBLIC—Continued.
  percentage required.................... 1219
  first and second grade, good in any county when.......................... 1221
  fee 1223
  issued only to persons of good morals 1319
  granted or renewed without examination...... 1220
  county certificates to holders of life diplomas.... 1224
  certificate required..................... 1222
County Board of Education,
  dismissal of, appeal from......... . 1168
  duties of.......... 1166
  and see................................ 1171
  faithful performance of, must appear to officer before he draws warrant in favor of.... 1169
  ethical instruction by........... 1171
  female, to receive same pay as males.. 1173
  holidays.... 1167
  no deductions on account of 1167
  institutes, see head of teachers' institutes.... 1050-1053
  insulting or abusing, is misdemeanor.. 1315
  introduction or recommendation of book, etc , by, prohibited........ ... 1318
  life diplomas, issuance of.... .. . 935, 936
  month, school, construed 1167
  patriotic instruction by........... 1171
  payment of, out of what fund.......... 1122
  religious or partisan test forbidden..... 1174
  warrant in favor of, faithful performance of duties as condition precedent to drawing................ 1169
  no requisition for such warrant unless teacher holds proper unexpired certificate and regularly employed. ... 1170
Teachers' Institutes,
  applicants for teachers' certificates to pay fee for fund for.................. 1223
  attendance of every teacher in county required.............................. 1050
  pay of teachers not diminished for 1052
  expenses of, account, payment and amount of........................... 1053
  fee of applicants for teachers' certificates, devoted to fund for........... 1223
  fund, how raised and disposed of...... 1223
  pay of teachers, not curtailed for attendance at... 1052
  sessions. length of.................... 1051
Text Books,
  must be uniform........................ 1295
  to be used for six years 1296
  list adopted and prices................ 1297
  duties of superintendents concerning.. 1298
  penalty for not using.................. 1299
  reports concerning................ . 1300
  duties of State board hereafter........ 1301
Trustees, School,
  clerk of school district, to elect one of their number as 1120
  bribery of.............................. 1324
  contracts, official, not to be interested in 1321
  control school district................. 1091
  children, must compel attendance of.. 1154-1156
  district school tax, to call election for.. 1245
  duties concerning...................1245-1253
  duties as to issuing bonds..........1270-1278
  equality, to preserve in time of maintenance, rights and privileges of schools............... 1097
  election........ 1072-1081
  certificate of.......... 1081
  challenge and oath satisfying......... 1079
  notice of 1073
  place of........ 1074
  poll and tally list...................... 1080
  polls, time of opening and keeping open 1076
  time and place of............ 1072
  vote, who may 1077
  voting by ballot... 1078
  liability of boards of, on contracts for teachers' salaries and debts hereunder. 1100
  jointly and severally, for loss of apportionment of school moneys by district, through failure to appoint census marshal......................... 1101
  moneys, school use of by.............. 1099

SCHOOLS, PUBLIC—Continued.
liability for loss of, by district........ 1101
new school districts, in, term of office of........................1072, subd. 3
resident trustees of old districts, resident in new, become trustees of latter.............................. 1095
number of....... ....1072, 1091
powers and duties..................... 1090
may exclude children of filthy and vicious habits........................ 1130
may establish separate schools for children of African descent.... .. . 1130
sex not to disqualify for office of...... 1072
stationery and supplies for use of schools, furnished under direction of 1098
charges therefor, how paid............ 1098
term of office of.... ....1072, 1092, 1093
vacancy term for which filled.....1072, 1092
how filled until next election....... .. 1094
see school lands, under lands, State.2320-2364
SCHOOL, STATE REFORM,
See Reform School.
SEAL,
impression of......................... 13
generally. 14
officers, executive of......... 636
description and impression of, where filed 636
custody of great seal........ 237
Seal, Great of State,
description of.................... 635
impression of seal of executive and State officers, where filed........... 636
custody of..................... 237
SEALERS OF WEIGHTS AND MEASURES
State,
"C." letter to be impressed on copies of original standards by.. 334
to indicate word "correct"............ 334
device impressed on county copies of original standards by............... 334
recorded in office of.................. 334
duties of.............................. 330
ex officio, Secretary of State is......... 203
mark copies of original standards, must 334
Secretary of State is *ex officio*.. 203
standards, original copies to be deposited with county sealers under direction of..... 333
copies, how marked by................ 334
weights and measures.............2085-2101
County,
counties severally responsible for copies of the original standards delivered to them.............................. 332
such copies deposited at expense of ... 332
ex officio, county clerks are............ 331
fees of..... 336
standards, county, must keep in their offices.................... 333
copies of original, deposited in offices of 334
copy of device for, delivered to respective county sealers.................. 334
weights and measures, to compare with copies of standards........ 335
when conformed, to be sealed and marked as correct.................. 335
SEAT OF GOVERNMENT,
election for location of................70-74
Legislative Assembly to assemble at.. 90
SECRETARY OF STATE,
authentication of Legislative bills by, certificate of, when become a law by non-action of Governor............ 167
bond of.............................. 246
bond of Commander-in-Chief seal to... 1365
books, distributed to officers by, remain property of State....... 240
must be delivered to successors.240, 628-630
must be indelibly marked by. 240
certificate of qualification of notary transmitted to office of............. 494
copy right of Supreme Court reports in. 479
civil executive officer is............. 198
certify to county clerk name of person nominated........ 772
commissions of officers signed and attested by.......................... 545
commission to Governor in certain cases.... 869

SECRETARY OF STATE—Continued.
commission to Representative in Congress, attesting of.................. 912
close of session of Legislative Assembly, to receive books and papers at and certify to same........... 116
commissioner of deeds, official oaths, when filed in office of............... 508
documents transmitted with commission, by.......................... 510
contest of elections for members of Legislative Assembly, duties in course of.......................138, 139
custody of official records and documents............................. 237
Duties,
to attend session of Legislative Assembly and receive bills... 238
to attest commissions with Great Seal. 238
to record conveyances and certificates of incorporation 238
to record official bonds.. 238
to take and file in his office receipts for books distributed by him. 238
to certify vote.... 238
to make and certify to copy of laws recorded.... 238
to deliver to printer copy of laws..... 238
to notify county attorney of failure to file list of fees..... 238
to report to Legislative Assembly amount of purchases................ 238
to keep record of fees 238
to file in his office description of seals.. 238
to discharge duties of member of boards................................ 239
to report to Governor............... 238
to record marks and brands 238
to distribute reports.......... 238
See Constitution.
as to classification of counties......... 2939
to distribute laws, journals, etc 239
to distribute reports of decisions of supreme court......................... 238
to take care of State capitol.......... 241
Election,
mode of prescribed in constitution..... 200
contesting...... ....145, 146
Election Returns,
functions concerning.................. ....866, 867, 868, 869, 871, 872, 873
Ex Officio State Sealer of Weights and Measures....................203, 330-336
member of State board of examiners... 208
Expenses of,
must be audited by board of examiners...... 243
Fees of 244
must be paid in advance.... 243
paid into State treasury 243
on appointment of commissioner of deeds................................ 511
fuel, lights, and stationery for offices, must furnish......... 242
indelibly mark books distributed to officers, must........................ 240
laws, resolutions and journals, distribution of by...... 239
Legislative bills, approved by Governor, deposited in office of........ 166
passed over veto, same disposition of.. 167
becoming laws by Governor's non-action, certified by and deposited in office of......... 169
mark indelibly books distributed to officers, duty to..................... 240
messenger, must send for returns, when 868
member of State board of equalization. 204
of State board of education............ 205
of State board of examiners........... 208
of State board of land commissioners.. 211
of board of State prison commissioners 209
nomination of officer to receive copy of Senate resolution concurring in...... 541
certificates of, must be preserved in office of one year................... 770
nomination certificates, where to be filed................................ 771
notary, duties as to............. 494
oath of office of officers to be filed in office of............................ 554
official bond................ 246

SECRETARY OF STATE—Continued.
  of State officers, filed and recorded in office of.... 573
  report of, when to be made 187
  number of copies of, to be printed.... 189
  when printed 188
  delivered 190
  reports of State officers, number of copies of each to be delivered to...190, 239
  of supreme court reports 238
  recorder of marks and brands.... 1950
  residence of, at seat of government required. 525
  resignations made to 617
  salary.... 245
  sealer of weights and measures.... 203
  stationery, must provide under contract 242
  State sealer of weights and measures is ex-officio.... 203
  State treasury, monthly affidavit of result of counting moneys in, filed in office of.... 431
  State board of canvassers' chairman of 867
  messenger, must send, when.... 868
  Superintendent of State Capitol, is, and must keep same in repair.... 244
  Supreme Court Reports, how distributed by.... 238
  to purchase copies of for use of State.. 478
  to distribute and deposit copies of, where 478
  copy right of.... 479
  trade marks to keep record of.... 2117
  vacancy in office of, mode of filling.... 623
  weights and measures, sealer of.... ....330-336, 2085-2101
SECRETARY OF SENATE.
  see Legislative Assembly, assistant, duties of.... 109
  label bills at close of session 116
  compensation 122, 123
SENATORIAL DISTRICTS,
  how constituted 57
  new counties.... 58
SENATORS, STATE,
  see Legislative Assembly....85-88
Constitution,
  United States, see elections....900-901
SENATE,
  members of 85
  election and term....86, 87, 88
  officers of and employes.... 100
  organization of.... 93
Sureties,
  On Bonds of Officers, See Official Bonds.
SEPULTURE,
  see Cemeteries and Sepulture.
SERGEANT-AT-ARMS,
  see under Legislative Assembly....100, 101
  assistant....100, 101, 112
  compensation.... 122
  of Senate duties.... 111
  of House.... 111
  compensation.... 122
Settlements and Payments, See Under Revenue
SEWERS,
  in cities and towns, how established... 3447-3452
  public in.... 3448
  district in.... 3449
  private in 3450
  taxes for.... 3442
  tax and bond, for....3520, 3521
SHERIFF,
  auctioneer, ex-officio.... 2277
  administrators of, actions against.... 2984
  bond of.... 2941
  boarding prisoners, no profit out of.... 3141
  contested election for member of Legislative Assembly, in, to serve notice of contest and subpœnas....133, 134
  coroner as 3085
  conveying prisoner.... 3170
  county seat, office at 2932
  court-martial, to serve orders, etc., of. 1528, 1529
  crier of court.... 2997
  default or misconduct of, action for, against administrator of.... 2984
  duties of....2981, 3001
  deputies allowed.... 3137
SHERIFF—Continued.
  damages for failure to pay over money, 2989
  elisor, when to execute process and orders.... 3000
  escape, liability for.... 2990
  return or recapture as bar to action for 2992
  execution....2988, 2994
  expenses, but no mileage.... 3140
  penalty for false report as to.... ...3163, 3164
  fees of.... 3170
  fees of to be paid monthly into treasury 3142
  must be paid in advance.... 3147
  no other fees.... 3152
  itemized receipt for fees.... 3150
  to keep posted in office list of fees allowed. 3151
  must receive no other fees.... 3152
  paid in advance. 3147
  itemized account and vouchers. 3140
  insane person delivered to asylum by... 1598
  law, prohibited from practicing.... 2937
  levy or sell property on execution, liability to creditor for failure to.... 2988
  mileage, not entitled to 3140
  expenses, in lieu of.... 3140
  notice, definition of.... 2980
  office of, is vacant when sheriff remains committed sixty days for withholding money officially received 2994
  party to action or proceedings, when sheriff is, coroner to act for 2999
  penalty *for* false report as to expenses. 3163 3164
  prisoners, must make no profit out of boarding.... 3141
  process definition of.... 2980
  execution of, if irregular on its face, etc., obligatory.... 2995
  showing, obligatory on officer executing 2996
  rescue, liability for.... 2991
  return or recapture, as barrixg action for.... 2992
  return of, on process or notices, by mail, to another county.... 2985
  as evidence.... 2986
  liability for delay.... 2987
Salary and fees,
  see salaries and fees of officers....3130, 3196
  salary of.... 3133
  service of a paper, other than process upon.... 2998
  under sheriff, must appoirt.... 2982
  duties. 2983
  vacant, office is, when 2994, 3165
SITE,
  of incorporated city or town on lands *of United States, proceedings*...3600-3620
  of unincorporated town on lands of United States, proceedings....3630-3634
SIGNATURE,
  definition of as used in this Code.... 16
  ex officio officer, of.... 640
SINGULAR NUMBER,
  includes plural in this Code.... 16
SOVEREIGNTY,
  of State, resides in people.... 25
  territorial extent of.... 27
  military and Indian reservations.... 28
SPEAKER OF THE HOUSE OF REPRESENTATIVES,
  speaker *pro tem.*, see under Legislative Assembly.... 101
  powers and duties.... 107
  per diem of.... 121
SPECIAL ELECTIONS,
  See Under Elections.
STATE
  Absence from, See Under Absence.
  allegiance to.... 46
  Bonds. See Under Bonds.
  boundaries alone limit jurisdiction ... 39
  citizens of.... 41
  counties, divided into 55, 2771-2793
  jurisdiction of, its extent.... 39
  every person while in State subject *to*. 45
  Lands, See Lands State.
  purchase or condemnation of by United States.... 39
  people of, see under people.... 40
Property,
  escheats to 34
  may acquire by taxation.... 35

STATE—Continued.
may exercise right of eminent domain over 36
belonging to, exempt from taxation 2401
Protection of,
every person while within limits of State entitled to 45
Rights of,
over persons within its limits enumerated 33-36
Sovereignty of, See Sovereignty.
Word,
meaning of in this Code 16
Writs and Processes,
in name of 16, 25
style of 25
STOCK COMMISSIONERS,
board of, duties, where prescribed 327
how appointed 1960
qualification and term 1961
districts 1962
organization of 1963
expenses allowed 1964
duties of 1965
auditing bills and expenses 1966
report 1967
estrays, duties as to 2049-2055
STOCK INSPECTORS,
appointment and powers 1970
bond and oath 1971
compensation 1972
Deputy,
State veterinary surgeon may appoint. 2022
term 2022
residence and oath 2023
duties 2024
sheep inspection of 2024
must cause all diseased sheep to be examined 2025
quarantine by Governor 2026
as to other States 2027
quarantined sheep how cared for 2028
scabby sheep not to be moved 2029
inspection of sheep from other States 2030
compensation of deputy 2031
form of bills and vouchers 2032
must keep book 2033
penalty for bringing diseased sheep into State 2035
report of deputy 2036
additional inspector appointed 2037
levy of tax for sheep inspection and indemnity fund 2038
STOCK INSPECTION TAX LEVY FOR,
levy of taxes for stock inspection and detective fund, 1980
commissioners must levy 1980
fund kept separate 1980
district officers, detectives and inspectors 1981
board must designate district 1981
STOCK INDEMNITY FUND,
tax levied for 2002
SHEEP INDEMNITY FUND,
tax levied for 2038
STATE BOARD OF EQUALIZATION,
who compose 204
duties, where prescribed 437
STATE BOARD OF EDUCATION,
see under schools, public 930-937
who compose and how constituted 205, 930, 931
duties, where prescribed 438, 935
members, number 930
members, *ex officio* 930
Governor, State Superintendent of Public Instruction and Attorney General, members *ex officio* 930
members appointed by Governor and confirmed by Senate 930
members appointed divided into classes 931
members, terms of 931
Governor is president of the board, and Superintendent of Public Instruction, secretary 932
majority of all board necessary to validity of any act by board 933
meetings of board 934
powers and duties of board 935
life diplomas 936
expense of issuing same 936
may establish high school 1200, 1201
STATE BOARD OF EDUCATION—C't'd
members, traveling expenses of 937
STATE BOARD OF LAND COMMISSIONERS.
who compose 210
duties 2320-2364
see lands, State 2320-2364
STATE TREASURER,
board of equalization, member of 204
board of State canvassers, member of. 867
must act as member of board of examiners, when 425
bond of 279
access to offices for inspection of books 277
books must be kept open for inspection 275
books, accounts, papers, etc., of, to be investigated by board of examiners. 430
to furnish demanded information concerning 430
and permit examination of 432
civil executive officer, is 198
disbursing officers, duties of 563, 564
duties of 270
Election,
mode of 200
contesting 145, 146
Examiners,
to act in place of disqualified member of board of 425
ex officio member of board of equalization 204
Funds,
must be kept separate 278
separate account with each 278
quarterly reports 278
duty of Governor 278
Money,
in State treasury, board of examiners to count as often as it deems proper. 430
affidavit of result 431
treasurer to permit counting without delay on any pretence whatever 432
money must be kept in State treasury 273
official bond 279
printing, stationery and supplies, must fix maximum prices of 2242
report of 187-189
residence of at seat of government required 525
salary, annual, covering *ex officio* services 276
scrip, not to deal in 561
suspension of treasurer upon default, embezzlement, or negligence 280
duty of board of examiners in such a case 281
expert to examine books 281
Secretary of State, official bond to be filed in office of 574
vacancy in office, mode of filling 623
Warrants,
must keep book in which all warrants entered 272
list to be posted on office door 274
funds received from sale of State lands 2363
counting moneys in, board of examiners to do as often as it deems proper 430
to take place at least once a month 431
monthly affidavits of result filed and published where 431
Treasurer not to delay 432
General Fund,
of what consists 271
percentage of fees collected by clerk of supreme court to be paid to credit of. 463
salaries of officers to be paid monthly out of 638
salary of Adjutant General 1482
supreme court clerk to pay fees into 463
Supreme Court Library Fund,
clerk of supreme court to pay percentage of his fees to credit of 463
STATE EXAMINER,
appointment and term 320
duties 321
reports 322, 191, 187
officers and employes to afford reasonable facilities for investigation 323
powers 324
salary 325
bond 326

STATE EXAMINER—Continued.
  executive officer.................. 198
STATE NORMAL SCHOOL,
  established.................. 1010
  control and management.............. 1011
STATE BOARD OF COMMISSIONERS FOR THE INSANE,
  see Insane Asylum 1550-1577
STATE BOARD OF COMMISSIONERS FOR THE DEAF, DUMB AND BLIND,
  see Deaf, Dumb and Blind........1621-1627
STATE AUDITOR,
  books and papers, examination of by board of examiners, must permit.... ....431, 432
  board of examiners may stop drawing of warrant by 429
  access to all offices of State for inspection of books, etc.................... 260
  civil executive officer is. 198
  annual salary of...................... 259
  defaulter, to state an account with.... 258
  averments in action against, where insufficient information for account... 258
  duties of 254
  in relation to school fund............. 256
  election, mode of..................... 200
  ex officio member of State board of equalization.......................... 204
  member of board of State canvassers.. 867
  ex officio member of State board of pardons..................... 210
  official bond of...................... 261
  prosecution of delinquents, etc., at instance of...................... 2678-2680
  reports of county officers must publish amount of moneys................ 2947
  report of........................ 254
  time of making 254, 191
  printing and distribution of copies..... 189
  residence of, at seat of government, required..................... 525
  salary of, annual, covering *ex officio* services. 259
  school fund, duties concerning...... .. 256
  scrips, prohibitions against dealing in. 561
  settlement with clerk of supreme court 464
  settlements with, by county treasurers. 2668-2670
  deductions on......................... 2673
  settlement with persons indebted to State............................... 255
  State board of equalization *ex officio* member of....... 204
  statistics, duties as to........... 2190-2194
  supreme court clerk to make accounting and settlement of fees with...... 464
  vacancy in office of, mode of filling.... 623
  warrants for audited claims, filed in office of, drawn in order of numbers. 257
  drawn by, in order of approval, for claims approved by board of examiners......... 428
  not to draw for claim unless same approved by board of examiners....... 428
  payment stopped when about to be drawn by, or already drawn, without legal authority or for larger amount than due.......... 429
  not drawn for salary of officers failing to return books to State library...... 1641
STATE LAND AGENT.
  appointment and term.......... ...201, 293
  duties.... 294
  to select school and indemnity lands.... 294
  to discharge duties relating to public lands provided in Title VIII., Part III., of this Code.... 294
  to perform such duties as may be prescribed by State board of land commissioners 294
  bond of............................... 296
  salary................. 295
  list of lands sold by State to be transmitted to assessor, ... 2451
STATE BOARD OF LAND COMMISSIONERS.
  board, how composed............... 2320
  duties...........................2321-2364
See Lands, State.
STATE LAND.
  meaning of... 2364
  see land, State 2320-2364
  selection of.......................2320-2364
  sale of...........................2320-2364
  leasing of........ 2320-2364
  trespass upon, penalty, where prescribed.......................... 2361
STATE VETERINARY SURGEON.
  appointment of........................ 212
  duties, where prescribed 327
  appointment, term of office and official bond................................. 1986
  duties....................... 1987
  owners must notify................... 1988
  exceptions 1989
  quarantine, how ordered....... 1990
  order diseased animals slaughtered... 1991
  appraisers as to value................ 1992
  report 1993
  importation prohibited.... 1994
  persons to report contagious diseases to 1995
  diseased animals not to be sold for food 1996
  payment for diseased animals killed.... 1997
  payment of indemnity................ 1998
  salary and qualifications............. 1999
  liability for animals destroyed........ 2000
  fees of appraisers and others 2000
  tax for stock indemnity fund. 2002
  place of quarantine 2003
  deputies.......... ....2004, 2022-2038
  see deputy inspector sheep disease.2022-2038
STATE INSPECTOR OF MINES.
  see inspector of mines.....270-280, 2230-2245
State Lands, See Lands, State.
STATE LIBRARIAN,
  see under State Library.......... .. 206
  duties, where prescribed. 439, 1639
STATE LIBRARY.
  books who may take from........... 1640
  return of, by members of Legislature, and how enforced.................. 1641
  same for any officer....... 1642
  penalty for injury to, or failure to return..... 1643
  historical and cabinet department in. . 1648
  trustees of.............. .... 1636 206
  fund State library, of what fees consist...... 463
  fund.. 1651
  librarian, appointment of..........206, 1637
  bond, official, of..................... 1647
  duties of.................. 1639
  powers and duties of, where prescribed. 1639
  salary of............................ 1646
  term of office 1638
  expenses of freight, etc., how paid ... 1649
  duty of board of examiners 1649, 1650
  rent of room and supplies.............. 1650
  open, how long kept.................. 1640
  trustees board of, control, library..... 1636
  powers and duties of..... 1637
  historical society, duty of trustees..... 1652
STATE PRISON,
  control and management of, where provided for............................ 1661
  persons constituting........ 209
  powers and duties of, where prescribed........ 440
  list of persons confined in, Governor to keep.............. 221
STATE REFORM SCHOOL,
  control and management, where provided for 1671
STATE SEALER OF WEIGHTS AND MEASURES,
 330-336
  see under Sealers of Weights and Measures................. 330-336
  standard weights and measures...2085-2101
  see weights and measures.........2085-2101
STATISTICS.
  State auditor must prepare table of.... 2190
  officers to answer questions relating to, 2191
  assessors must collect.... 2191
  enumeration of....................... 2192
  officers, duties of...................... 2193
  penalties for non-performance......... 2194
STATE INSANE ASYLUM,
  see insane asylum.................1550-1577

STATE DEAF, DUMB AND BLIND ASYLUM,
- see deaf, dumb and blind..........1621–1627

STATUTES,
- amendment of, see under amendments. 177
- act amending a section of an act repealed void........................ 182
- common law, in derogation of........ 4
- consistent with this Code, not continued in force thereby...... 17
- construction of 178
- continued in force by Codes........... 18
- distribution of and promulgation. 173
- when statute takes effect............... 175
- enactment of 165-170
- see, also Legislative bills..........165-170
- operation of 175–182
- joint resolutions............... 176
- effect of amendments....... 177
- private, not expressly repealed, unaffected by this Code.. 17
- promulgation of........................ 173
- publication and distribution of..... ... 173
- repeal of............................179, 180
- repeal of law creating office........... 181
- repealing 4, 17
- retroactive 3
- rules of construction, general, where contained............................ 178
- twentieth day after passage, statute takes effect on, unless different time prescribed therein..... 175
- special, local or private, not affected ... 18

STEAM BOILERS,
- see inspection of boilers.............340-348

STEAMERS,
- see navigation.............. 1680-1689

STREAMS,
- see navigable streams and waters.... 1675

STREETS,
- condemnation of property for..3390, sub. 75
- Gas or Water Pipes Laid in, See Under Cities and Towns.
- highways are.......................... 1700
- improvement of in cities and towns 3435, 3446
- poll tax for 3430, 3433

STUDENTS.
- See Pupils Under Schools, Public.

SUBPOENAS.
- for witnesses before Legislative Assembly...........................156-160

SUBSCRIPTION.
- meaning of, in this Code.............. 16

SUIT,
- See Action.

SUMMONS.
- See Process.

SUNDAY
- certain holidays falling on, celebrated on Monday......... 10

SUPERINTENDENT OF PUBLIC INSTRUCTION.
- see State board of education.........930-936
- civil executive officer, is................ 198
- duties of, where prescribed............ 313
- enumeration of......... 1030
- election, mode of, prescribed by Constitution............................ 200
- contesting..........................145, 146
- official bond.. 314
- report of, when sent to Governor...187, 1039
- when printed..... 188
- number of copies of, to be printed...... 189
- number of copies of, delivered to...... 190
- distribution of copies of.......... 190
- to State Auditor, of number of children of certain ages in State............. 1031
- residence of required................. 525
- salary of, annual............ 313
- State board of education, is member and secretary of.............205, 930, 931
- State board of land commissioners, members of.............. 211
- vacancy in office of, mode of filling.... 623

SUPERVISOR, ROAD,
- duties, where prescribed.............. 3117
- see highways and roads...........1700-1892

SUPERINTENDENT OF COMMON SCHOOLS,
- County,
  - see county superintendent of common schools... ....1040, 1045

SUPPLIES AND FURNISHING,
- board of 433
- duties. 434
- contracts, how let.... 435
- what advertisement must specify...... 436
- award to lowest bidder...... 437
- bids accompanied by bond. 438
- board may classify articles to be formulated 439
- contract must be approved by Governor and State Treasurer................. 440
- supplies and room for Legislative Assembly.... 441
- may hire necessary rooms for Legislative Assembly without advertising.. 442
- officer must not be interested in contracts 443
- clerical help, board may employ for office........ 444

SUPREME COURT,
- marshal of, duties.............. 455-458
- Clerk of, See Clerk of Supreme Court.
- Justice of, See Justices of Supreme Court.
- Reporter of Decisions of, see that head.
- Reports, See Under Justices of the Supreme Court.

SURETIES,
- See Under Official Bonds.

SURVEY AND PLAT,
- of cities and towns and additions..3530–3543
- of cities and town sites in unincorporated cities and towns.. 3601–3606, 3613
- in unincorporated towns.....3632–3636, 3644
- See Lands of State.
- of county boundaries to settle disputes.................. 2800–2806
- See County Surveyor.

SURVEYOR,
- See County Surveyor.
- road, to view change, etc., of......... 1825

SURVEYOR, COUNTY,
- bond of............................ 2941
- county boundaries, functions in settling 2801
- disinterested person, when to act in place of.......................... 3075
- duties of 3070–3071
- fees of........... 3175
- surveys of land in two counties........ 3071
- order for survey 3072
- courses and variations to be noted..... 3073
- to employ assistants, when........... 3074
- survey upon order of court........... 3070

TAX,
- See Under Revenue.
- who are tax payers 678
- see stock inspection, tax levy for..1890-1891
- Stock Indemnity Fund.
- Sheep Indemnity Fund.

TAX COLLECTOR,
- See County Treasurer.

TAXATION,
- See Under Revenue.

TAXES,
- See Under Revenue.
- stock inspection..................1980, 1981
- sheep indemnity fund......... 2038
- indemnity fund......................... 2002
- annual for cities and towns not to exceed certain sum.................... 3405
- special and assessments 3406
- city and town, how assessed and collected....... 3415-3455
- for paying for private property........ 3453
- license tax 3455
- on personal property, mode of payment 2439

TEACHERS
- See Under Schools, Public.

TEACHERS' INSTITUTES,
- 1050 1054

TENSES,
- construction of in this Code........... 16

TERMS,
- signification of certain used in this Code................................ 16

TESTIFY,
meaning of word in this Code......... 16
TEXT BOOKS,
to be used in schools 1295-1301
THING IN ACTION,
assessment of, to whom made......... 2439
personal property includes........16, sub. 3
taxes on, mode of payment........... 2439
TICKET,
See Under Elections.
Lottery, See Constitution, Penal Code.
TIE VOTE,
See Under Elections, Constitution.
TIME,
computation of.....................12, 2103
day. 2107
day-time............................ 2108
leap years.......................... 2104
night-time.......................... 2108
week................................ 2106
year and its divisions.............. 2105
TITLE,
Act of, See Under Act, Constitution.
Tax, See Tax Under Revenue.
TOLL,
ferries.........................1860, 1876
Roads and bridges,
prohibited.......................... 1883
contracts in reference thereto void..... 1884
special laws in reference thereto, void. 1885
commissioners must take possession of and open as free.......... 1886
For Grinding Grain,
rate of............................. 2180
owner or occupant accountable for grain............................ 2181
penalty 2182
TOWNS,
streets and alleys in, not county roads. 3133
Fire Matters in Unincorporated, See Fires and Firemen
Governments Town, System of, See Cities and Towns.
TOWN SITES
entry of unincorporated cities or towns,
[illegible]
entry of unincorporated towns [illegible]
See Cities and Towns
TRADE MARKS,
[illegible]

[illegible]

disposition of ... [illegible] 1945
sale of, at auction, after sixty days.... 1941
notice and advertisement required to precede................................ 1941
disposition of surplus..............1941, 1942
storage of, until charges paid.......... 1940

UNCLAIMED PROPERTY—Continued,
carrier's responsibility ceases after.... 1943
person with whom effected, liable only for negligence......................... 1943
surplus over freight and charges, realized at sale of, disposition of....1941, 1942
UNDER SHERIFF,
see sheriff 2982, 2983
UNITED STATES,
cession of places to, by State, terms of same, qualify extent of State's jurisdiction........ 27
citizens of, not citizens of this state... 51
Condemnation of Places or Lands By, See Purchase or Condemnation.
meaning of words in this Code........ 16
purchase or condemnation of places in State by, laws governing, qualify extent of State's jurisdiction........... 27
of land for public purposes, conditions of Legislative Assembly's consent to. 28
UNIVERSITY OF MONTANA,
established............................ 940
control and supervision of.... 941
name not to be used by any other person........ .. .. , 942
State has exclusive right to use name. 942
VACANCIES IN OFFICE,
how filled............... 617-624
in city or town offices................ 3353
vacancies, how they occur 618
in city or town offices................ 3351
notice thereof, to whom given. 619
vacancy in Legislative Assembly, how filled............................. 620
vacancies during recess of Legislative Assembly 621
vacancies, how filled when not otherwise provided..................... ... 622
vacancies in certain State offices, how filled................. 623
powers and duties of ocers filling unexpired terms......... 624
VETERINARY SURGEON,
see State veterinary surgeon [illegible]
VALUE,
See Definitions Under Re[illegible]
[illegible]
VEHICLES,
on highways and roads [illegible]
VETO,
[illegible]
VIEWERS
[illegible]

[illegible]

WATER COMPANIES,
Streets of Municipalities, Etc., Use of by, See Under Cities and Towns.
WATER PIPES.
Authority to Lay in City Streets, See Cities and Towns.

WATER WORKS.
bonds of city and town for.... . 3520, 3521
WEIGHTS AND MEASURES.
acre.... 2089
avoirdupois weight.... 2090
barrel... 2093
bushel, half, is unit, for dry measure.. 2004
division of half........... 2095
chain... 2088
commodities, measures of capacity for. 2096
sold by heap measure, cones of.... 2097
extension, unit of.... 2086
gallon, standard, and its parts are units of liquid measure 2092
heap measure.................... 2097
hogshead 2093
hundred weight...... 2091
mile.......... 2088
ounce, avoirdupois and troy 2001
Perch. See Rod.
Pole, See Rod
pound, avoirdupois, ratio to troy.....
divisions and multiples of............. 2091
rod, perch or pole....... 2088
sealers of, Secretary of State *ex officio*.. 203
standards of........................... 285
govern contracts made within this State 2098
ton..... 2091
mineral, coal...... 2090
weights, standard avoirdupois and troy, are units of 2090
yard, standard, is unit of extension.. . 2086
divisions of.... 2087
weight of bushel 2099
weights and measures, dealers must have their balances compared.:...... 2100
penalties, where prescribed 2101

WILL
word includes codicils in this Code 16 sub. 5
WITNESS.
attendance and examination of, before Legislative Assembly. 156 160
WOMEN.
her right to vote at school elections.....676
upon all questions submitted to tax payers, who are tax payers, have right to vote..... 677
who are tax payers...... 678
WOODS,
on fire 2144
WORDS,
boundaries, used in connection with 2777 2792
construction of 15
joint authority giving effect of.... 14
Political Code, certain words in, defined.... 16
technical, how construed.............. 15
WORK,
See Labor.
See Employer and Employe.
See Blacklisting.
See Highway Labor.
WRIT,
meaning of words in this Code. ..16, sub. 6
See Process.
YEAR,
definition and divisions of. 2105, 10
leap........... 2104
fiscal......... 2515
in cities and towns 3428
school, commencement and end of..... 1323